

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
SprintCom, Inc., Shenandoah Personal)	WT Docket No. 15-262
Communications, LLC, and)	
NTELOS Holdings Corp.)	
)	
For Consent To Assign Licenses and Spectrum)	
Lease Authorizations and To Transfer Control of)	
Spectrum Lease Authorizations and an International)	
Section 214 Authorization)	

MEMORANDUM OPINION AND ORDER

Adopted: April 15, 2016

Released: April 15, 2016

By the Chief, Wireless Telecommunications Bureau, and Chief, International Bureau:

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I. INTRODUCTION

1. In this Memorandum Opinion and Order, we grant consent, subject to conditions, to the applications of Sprint, Shentel and NTELOS for the transfer of control and assignment of a number of AWS-1, PCS, BRS, and EBS spectrum licenses covering all or parts of thirty-eight local market areas in portions of Kentucky, Maryland, North Carolina, Ohio, Pennsylvania, Virginia, and West Virginia from NTELOS to Shentel and Sprint and an international Section 214 authorization held by NTELOS to Shentel.¹ As discussed below, as part of our determination whether the proposed transaction is in the

¹ Sprint, Shentel, and NTELOS request consent to the assignment of licenses and spectrum leases from various NTELOS subsidiaries to Sprint, which will include, as an interim step, the transfer of control of NTELOS to
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public interest, we evaluate the competitive effects of Sprint's post-transaction spectrum holdings on a local level. In addition, we also evaluate the likely competitive effects of increased market concentration, as NTELOS's approximately 300,000 customers will be transferred to Shentel, which will convert them into Sprint-branded customers.

2. Based on our analysis, we find the potential for certain competitive harms arising from this proposed transaction. Sprint's spectrum aggregation as a result of the proposed transaction raises some competitive concerns, specifically in a cluster of Virginia markets. These concerns are mitigated by the Applicants' commitment, which we impose as a condition, to divest some of the spectrum being acquired by Sprint from NTELOS in certain markets in Virginia. We also recognize that the proposed transaction will cause the exit of NTELOS as an independent facilities-based service provider in certain markets in Virginia and West Virginia. The Applicants, however, claim that certain public interest benefits, including enhanced wireless coverage through network densification and expansion, will result from the proposed transaction. The Applicants have made certain commitments related to these benefits, which we also impose as conditions, that will help ensure their achievement in parts of southern Virginia and West Virginia and help ameliorate possible harms arising from the loss of NTELOS in these markets. Accordingly, based on our review of the record and in light of these commitments, which we impose as conditions to our consent to the applications, we find that the public interest benefits of the proposed transaction outweigh the likelihood of public interest harms, such that, overall, the proposed transaction is in the public interest.

II. BACKGROUND AND PUBLIC INTEREST FRAMEWORK

3. On August 25, 2015, Sprint, Shentel and NTELOS filed the Applications pursuant to Section 310(d) of the Communications Act of 1934, as amended (the Act),² seeking Commission consent to assign PCS, AWS-1, BRS, Common Carrier Fixed Point to Point microwave, and Private Point to Point microwave licenses from NTELOS to Sprint.³ The Applicants also filed applications to transfer control from NTELOS to Shentel of BRS, PCS, 800 MHz Specialized Mobile Radio Service, and 1910-1915/1990-1995 MHz radio service spectrum leases, as well as control of an international Section 214 authorization.⁴ No petitions to deny or comments were received.

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Shentel. In addition, Shentel and NTELOS request consent to the transfer of control of certain spectrum leases from NTELOS subsidiaries to Shentel.

² 47 U.S.C. § 310(d).

³ Applications of SprintCom, Inc., Shenandoah Personal Communications, LLC, and NTELOS Holdings Corp., ULS File Nos. 0006917154 (lead application), 0006917350, 0006917353, 0006917374, and 0006917481 (filed Aug. 25, 2015, amended Sept. 25, 2015 and Nov. 10, 2015) (Applications), Exhibit 1 – Description of Transaction and Public Interest Statement at 1 (Public Interest Statement).

⁴ Public Interest Statement at 1; Application of NTELOS Inc. and Shenandoah Personal Communications, LLC for Consent To Transfer Control of Long-Term *De Facto* Transfer Leasing Arrangements, ULS File No. 0006918539 (filed Aug. 25, 2015); Application of West Virginia PCS Alliance, L.C. and Shenandoah Personal Communications, LLC for Consent To Transfer Control of Long-Term *De Facto* Transfer Leasing Arrangements, ULS File No. 0006918521 (filed Aug. 25, 2015); Application of NTELOS Inc. and Shenandoah Personal Communications, LLC for Consent To Transfer Control of an International Section 214 Authorization, File No. ITC-T/C-20150826-00215 (filed Aug. 25, 2015). The Applicants represent that these leases would be terminated at the closing of the proposed transaction. Public Interest Statement at 1. The Applicants also seek consent to assign from NTELOS to Sprint grandfathered BRS and EBS spectrum leases. No separate applications are required to assign these grandfathered leases to Sprint. 47 C.F.R. §§ 27.1214-15.

As set out in the docket, the Bureau accepted the Applications for filing and established a pleading cycle, released a public notice announcing that Numbering Resource Utilization and Forecast (NRUF) reports and local number portability (LNP) data would be placed into the record and adopted the associated protective order, adopted a

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4. *Description of the Applicants.* SprintCom, Inc. (Sprint) provides mobile wireless service to approximately 58 million customers, and offers a range of wireless and wireline voice and data services in all 50 states.⁵ Shenandoah Personal Communications, LLC (Shentel) is a regional telecommunications company and as a Sprint affiliate, provides Sprint-branded wireless services primarily in rural portions of Pennsylvania, Maryland, Virginia, and West Virginia to more than 440,000 customers.⁶ NTELOS Holdings Corp. (NTELOS) is a regional provider of wireless communications services to approximately 300,000 customers, primarily in Virginia and West Virginia, as well as parts of Maryland, North Carolina, Pennsylvania, Ohio, and Kentucky.⁷ NTELOS also provides wholesale network access to other service providers, most notably through an arrangement with subsidiaries of Sprint.⁸

5. *Description of the Transaction.* Through the proposed transaction, Shentel would acquire all of NTELOS's operations, including wireless network assets and spectrum, retail stores, and retail subscribers in NTELOS's western markets.⁹ Post consummation, Shentel would convert NTELOS's subscribers to Sprint-branded customers.¹⁰ Also, Shentel and Sprint entered into a series of agreements whereby immediately after consummation of the Shentel-NTELOS transaction, Shentel would assign to Sprint all of the spectrum licenses held by NTELOS, as well as certain spectrum leases acquired from

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protective order covering the submission of confidential and highly confidential information, and sent the Applicants information requests seeking further specific information relating to the proposed transaction.

⁵ SprintCom is a wholly-owned subsidiary of Sprint Corporation. Sprint's subsidiaries include Sprint Communications Company, L.P., Virgin Mobile, L.P., and Sprint Spectrum, L.P. SoftBank Corp. (SoftBank), through its subsidiaries, owns approximately 80% of Sprint. SoftBank is a publicly traded holding company organized and existing under the laws of Japan and is listed on the Tokyo Stock Exchange. *Applications of Sprint Nextel Corp. and SoftBank Corp. and Starburst II, Inc. for Consent To Transfer Control of Licenses and Authorizations*, Memorandum Opinion and Order, Declaratory Ruling, and Order on Reconsideration, 28 FCC Rcd 9642 (2013) (*SoftBank-Sprint Order*). SprintCorp. Inc., SEC, Form 10-Q, at 35, 43 (filed Feb. 4, 2016), <http://www.sec.gov/Archives/edgar/data/101830/000010183016000052/sprintcorp12-31x1510q.htm>.

⁶ Shentel PC is a wholly-owned subsidiary of Shenandoah Telecommunications Company, a Virginia corporation. According to the Applicants, Shentel's affiliate relationship with Sprint is governed by several agreements including: a Sprint PCS Management Agreement (Management Agreement), a Sprint PCS Services Agreement (Services Agreement), and two Trademark and Service Mark License Agreements (Trademark License Agreements). The Management Agreement, the Services Agreement, and the Trademark License Agreements were originally entered into in 1999, and have been amended several times in the intervening years. Response of Shenandoah Personal Communications, LLC to the General Information Request Dated November 13, 2015, WT Docket No. 15-262, at 5-8 (Dec. 4, 2015) (Shentel Dec. 4, 2015 Information Request Response); Public Interest Statement at 2.

⁷ NTELOS Holdings Corp., SEC Form 10-K, at 1 (filed Oct. 28, 2015), <http://www.sec.gov/Archives/edgar/data/1328571/000132857115000070/ntls-x09302015x10q.htm>.

⁸ Public Interest Statement at 3. Pursuant to a Strategic Network Alliance agreement between NTELOS and Sprint, NTELOS is the exclusive wholesale provider of wireless services in its western Virginia and West Virginia service areas for all Sprint CDMA and LTE wireless customers. *Id.* at 3.

⁹ The Applicants state that NTELOS previously assigned to T-Mobile licenses located in Fredericksburg, Hampton Roads/Norfolk, and Richmond, Virginia, as well as the Outer Banks of North Carolina. In that application, which was granted by the Bureau, NTELOS stated its intention to discontinue its retail service in those markets. Application of T-Mobile License, LLC and NTELOS Inc. for Consent To Transfer Control of PCS Spectrum, ULS File No. 0006568421 (filed Dec. 5, 2014), Exhibit 1 – Description of Transaction and Public Interest Statement at 2. In the application before us, the Applicants state that post-transaction Shentel will complete NTELOS's planned shutdown of these eastern markets to the extent that it has not already occurred. Public Interest Statement at 2-3; *see also* Response of NTELOS Holdings Corp. to the General Information Request Dated November 13, 2015, WT Docket No. 15-262, at 2 (Nov. 25, 2015) (stating that NTELOS previously sold its licenses for its eastern markets, and discontinued operations in these markets on November 15, 2015) (NTELOS Information Request Response).

¹⁰ Public Interest Statement at 3.

NTELOS.¹¹ Through these applications as originally proposed, NTELOS's subscribers would become Sprint-branded subscribers, and Sprint would be assigned or would lease up to an additional 135 megahertz of spectrum in 153 counties covering all or parts of thirty-eight Cellular Market Areas (CMAs) in portions of Kentucky, Maryland, North Carolina, Ohio, Pennsylvania, Virginia, and West Virginia. Post-transaction, without taking any spectrum divestitures into account, Sprint would hold 64 to 240.5 megahertz of spectrum in total, in all or part of these thirty-eight CMAs.¹²

6. *Standard of Review.* Pursuant to Sections 214 and 310(d) of the Act,¹³ we must determine whether the Applicants have demonstrated that the proposed transaction would serve the public interest, convenience, and necessity.¹⁴ In making this determination, we first assess whether the proposed transaction complies with the specific provisions of the Act,¹⁵ other applicable statutes, and the Commission's rules.¹⁶ If the proposed transaction does not violate a statute or rule, we next consider whether the proposed transaction could result in public interest harms by substantially frustrating or impairing the objectives or implementation of the Act or related statutes.¹⁷ We then employ a balancing test weighing any potential public interest harms of the proposed transaction against any potential public interest benefits.¹⁸ The Applicants bear the burden of proving, by a preponderance of the evidence, that the proposed transaction, on balance, would serve the public interest.¹⁹

7. The Commission has fully discussed the contours of the required public interest determination in several orders,²⁰ which we follow here. In general, the competitive analysis, which

¹¹ Public Interest Statement at 1, 3.

¹² *SprintCom, Inc., Shenandoah Personal Communications, LLC, and NTELOS Holdings Corp., Seek Consent to the Assignments of Licenses and Spectrum Lease Authorizations and to the Transfer of Control of Spectrum Lease Authorizations and International Section 214 Authorization*, WT Docket No. 15-262, Public Notice, 30 FCC Rcd 11687 (WTB 2015) (*Accepted for Filing Public Notice*). See also Applications, Exhibit 3 – Spectrum Aggregation.

¹³ 47 U.S.C. §§ 214, 310(d).

¹⁴ See, e.g., *Applications of AT&T Inc. and Cellular Properties, Inc. for Consent To Assign Authorizations*, Memorandum Opinion and Order, 31 FCC Rcd 318, 319-20, para. 4 (WTB, IB 2016) (*AT&T-CPI Order*); *Applications of AT&T Inc., E.N.M.R. Telephone Cooperative, Plateau Telecommunications, Inc., New Mexico RSA 4 East Limited Partnership, and Texas RSA 3 Limited Partnership for Consent To Assign Licenses and Authorizations*, Memorandum Opinion and Order, 30 FCC Rcd 5107, 5111, para. 8 (2015) (*AT&T-Plateau Wireless Order*); *Applications of AT&T Inc., Leap Wireless International, Inc., Cricket License Co., LLC and Leap Licenseco, Inc. for Consent To Transfer Control and Assign Licenses and Authorizations*, Memorandum Opinion and Order, 29 FCC Rcd 2735, 2741-42, para. 13 (WTB, IB 2014) (*AT&T-Leap Order*).

¹⁵ Section 310(d) requires that we consider the application as if the proposed assignee were applying for the licenses directly under section 308 of the Act. 47 U.S.C. §§ 308, 310(d). See, e.g., *AT&T-CPI Order*, 31 FCC Rcd at 319-20, para. 4; *AT&T-Plateau Wireless Order*, 30 FCC Rcd at 5111, para. 8 & n.27; *AT&T-Leap Order*, 29 FCC Rcd at 2741-42, para. 13 & n.45.

¹⁶ See, e.g., *AT&T-CPI Order*, 31 FCC Rcd at 319-20, para. 4; *AT&T-Plateau Wireless Order*, 30 FCC Rcd at 5111, para. 8; *AT&T-Leap Order*, 29 FCC Rcd at 2741-42, para. 13.

¹⁷ See, e.g., *AT&T-CPI Order*, 31 FCC Rcd at 319-20, para. 4; *AT&T-Plateau Wireless Order*, 30 FCC Rcd at 5111, para. 8; *AT&T-Leap Order*, 29 FCC Rcd at 2741-42, para. 13.

¹⁸ See, e.g., *AT&T-CPI Order*, 31 FCC Rcd at 319-20, para. 4; *AT&T-Plateau Wireless Order*, 30 FCC Rcd at 5111, para. 8; *AT&T-Leap Order*, 29 FCC Rcd at 2741-42, para. 13.

¹⁹ See, e.g., *AT&T-CPI Order*, 31 FCC Rcd at 319-20, para. 4; *AT&T-Plateau Wireless Order*, 30 FCC Rcd at 5111, para. 8; *AT&T-Leap Order*, 29 FCC Rcd at 2741-42, para. 13.

²⁰ See, e.g., *Applications of AT&T and DIRECTV for Consent To Assign or Transfer Control of Licenses and Authorizations*, Memorandum Opinion and Order, 29 FCC Rcd 9131, 9139-41, paras. 18-22 (2015) (*AT&T-DIRECTV Order*); *Applications of GCI Communication Corp., ACS Wireless License Sub, Inc., ACS of Anchorage License Sub, Inc., and Unicom, Inc. for Consent to Assign Licenses to the Alaska Wireless Network, LLC*,

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forms an important part of the public interest evaluation, is informed by, but not limited to, traditional antitrust principles.²¹ The Commission and the Department of Justice (DOJ) each have independent authority to examine the competitive impacts of proposed mergers and transactions involving transfers of Commission licenses, but the Commission's competitive analysis under the public interest standard is somewhat broader.²² The Commission's public interest authority enables us, where appropriate, to impose and enforce narrowly tailored, transaction-specific conditions that ensure that the public interest is served by the transaction.²³ If we are unable to find that the proposed transaction serves the public interest for any reason or if the record presents a substantial and material question of fact, we must designate the application(s) for hearing.²⁴

8. *Qualifications of the Applicants.* As a threshold matter, the Commission must determine whether the applicants to a proposed transaction meet the requisite qualifications requirements to hold and transfer licenses under Section 310(d) and the Commission's rules.²⁵ We note that no issues were raised with respect to the basic qualifications of Sprint, Shentel, or NTELOS, and Sprint previously and repeatedly has been found qualified to hold Commission licenses.²⁶ We therefore find that there is no reason to reevaluate the requisite citizenship, character, financial, technical, or other basic qualifications under the Act and our rules, regulations, and policies, of Sprint, Shentel, or NTELOS.

III. POTENTIAL PUBLIC INTEREST HARMS

9. In its examination of a proposed transaction, the Commission evaluates the potential public interest harms and undertakes a case-by-case review of the competitive effects of any increase in market concentration or in spectrum holdings in the relevant markets.²⁷ The Commission's competitive analysis of wireless transactions focuses initially on markets where the acquisition of customers and/or spectrum would result in significant concentration of either or both, and thereby could lead to competitive harm.²⁸ Spectrum is an essential input in the provision of mobile wireless services, and ensuring that sufficient spectrum is available for incumbent licensees as well as potential new entrants is critical to

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Memorandum Opinion and Order and Declaratory Ruling, 28 FCC Rcd 10433, 10442-44, paras. 23-27 (2013) (*Alaska Wireless Order*); *Applications of Comcast Corporation, General Electric Company, and NBC Universal, Inc. for Consent To Assign Licenses and Transfer Control of Licenses*, Memorandum Opinion and Order, 26 FCC Rcd 4238, 4247-49, paras. 22-25 (2011).

²¹ See, e.g., *AT&T-CPI Order*, 31 FCC Rcd at 320, para. 5; *AT&T-Plateau Wireless Order*, 30 FCC Rcd at 5111-12, para. 9; *AT&T-Leap Order*, 29 FCC Rcd at 2742-43, para. 15.

²² See, e.g., *AT&T-CPI Order*, 31 FCC Rcd at 320, para. 5; *AT&T-Plateau Wireless Order*, 30 FCC Rcd at 5111-12, para. 9; *AT&T-Leap Order*, 29 FCC Rcd at 2742-43, para. 15.

²³ See, e.g., *AT&T-CPI Order*, 31 FCC Rcd at 320, para. 5; *AT&T-Plateau Wireless Order*, 30 FCC Rcd at 5111-12, para. 9; *AT&T-Leap Order*, 29 FCC Rcd at 2743-44, para. 16.

²⁴ 47 U.S.C. § 309(e); see also, e.g., *AT&T-CPI Order*, 31 FCC Rcd at 320, para. 5; *AT&T-Plateau Wireless Order*, 30 FCC Rcd at 5111-12, para. 9; *AT&T-Leap Order*, 29 FCC Rcd at 2743, para. 15; *Application of EchoStar Communications Corp., General Motors Corp. and Hughes Electronics Corp., and EchoStar Communications Corp.*, Hearing Designation Order, 17 FCC Rcd 20559, 20574, para. 25 (2002).

²⁵ 47 U.S.C. § 310(d); 47 C.F.R. § 1.948; see also, e.g., *Application of AT&T Mobility Spectrum LLC and Club 42CM Limited Partnership for Consent To Assign Licenses*, Memorandum Opinion and Order, 30 FCC Rcd 13055, 13060, para. 11 (2015) (*AT&T-Club 42 Order*), *AT&T-CPI Order*, 31 FCC Rcd at 320-21, para. 6; *AT&T-Plateau Wireless Order*, 30 FCC Rcd at 5112, para. 10; *AT&T-Leap Order*, 29 FCC Rcd at 2744, para. 17.

²⁶ 47 U.S.C. § 310(d); 47 C.F.R. § 1.948. See, e.g., *SoftBank-Sprint Order*, 28 FCC Rcd at 9655, para. 33.

²⁷ See, e.g., *AT&T-CPI Order*, 31 FCC Rcd at 321, para. 7; *AT&T-Plateau Wireless Order*, 30 FCC Rcd at 5113, para. 12; *AT&T-Leap Order*, 29 FCC Rcd at 2745, para. 20.

²⁸ See, e.g., *AT&T-CPI Order*, 31 FCC Rcd at 321, para. 7; *AT&T-Plateau Wireless Order*, 30 FCC Rcd at 5113, para. 12; *AT&T-Leap Order*, 29 FCC Rcd at 2745, para. 20.

promoting effective competition and innovation in the marketplace.²⁹ In the past, the Commission has used a two-part screen to help identify those markets that provide particular reason for further competitive analysis, but has not limited its consideration of potential competitive harms solely to markets identified by its screen if it encounters other factors that may bear on the public interest inquiry.³⁰ In the *Mobile Spectrum Holdings Report and Order*, the Commission found that it is in the public interest to continue to use its spectrum screen and case-by-case review to evaluate the likely competitive effects of increased spectrum aggregation through secondary market transactions.³¹ We discuss below the likely effects of the proposed transaction on competition in the mobile wireless marketplace.

A. Market Definitions

10. We begin our competitive analysis by determining the appropriate market definitions for the proposed transaction,³² including a determination of the product market, the geographic market, the input market for spectrum suitable and available for the provision of mobile wireless services, and the market participants.

11. *Product Market.* Consistent with recent transaction orders we find that the relevant product market is a combined “mobile telephony/broadband services” product market that comprises mobile voice and data services, including mobile voice and data services provided over advanced broadband wireless networks (mobile broadband services).³³

12. *Geographic Market.* The Commission has found that the relevant geographic markets for certain wireless transactions generally are local, but has held that a transaction’s competitive effects should also be evaluated at the national level where a transaction exhibits certain national characteristics that provide cause for concern.³⁴ Here, as proposed in the original applications, the Applicants are seeking Commission approval of the assignment or lease of a maximum of 135 megahertz of spectrum covering 153 counties in all or parts of thirty-eight CMAs in portions of Kentucky, Maryland, North Carolina, Ohio, Pennsylvania, Virginia, and West Virginia. The proposed initial assignment covers approximately 5.5 million people or approximately 2 percent of the population of the United States. Given the limited local nature of the proposed transaction, we find it unlikely that there would be any

²⁹ *Policies Regarding Mobile Spectrum Holdings; Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Report and Order, 29 FCC Rcd 6133, 6143, 6167-68, paras. 17, 67 (2014), *recon. denied*, Order on Reconsideration, 30 FCC Rcd 8635 (2015) (*Mobile Spectrum Holdings Report and Order*). See also *AT&T-Chub 42 Order*, 30 FCC Rcd at 13062-63, para. 16; *AT&T-Leap Order*, 29 FCC Rcd at 2745-46, para. 21.

³⁰ See, e.g., *AT&T-CPI Order*, 31 FCC Rcd at 321, para. 7; *AT&T-Plateau Wireless Order*, 30 FCC Rcd at 5113, para. 12; *AT&T-Leap Order*, 29 FCC Rcd at 2752, 2753, 2755-56, paras. 39, 41, 47.

³¹ *Mobile Spectrum Holdings Report and Order*, 29 FCC Rcd at 6223-24, para. 231. In the *Mobile Spectrum Holdings Report and Order*, the Commission found that differences between spectrum bands can be relevant to a determination of the public interest in the context of reviewing proposed secondary market transactions and that such differences will be considered in the case-by-case review of specific transactions. *Id.* at 6223-24, para. 289. Further, the Commission stated that applications involving small amounts of high-band spectrum, particularly EBS spectrum, likely would present limited potential for public interest harms. *Id.* at 6224, para. 289.

³² See, e.g., *AT&T-CPI Order*, 31 FCC Rcd at 322, para. 10; *AT&T-Plateau Wireless Order*, 30 FCC Rcd at 5114-15, para. 16; *AT&T-Leap Order*, 29 FCC Rcd at 2746, para. 22.

³³ See, e.g., *AT&T-CPI Order*, 31 FCC Rcd at 322, para. 11; *AT&T-Plateau Wireless Order*, 30 FCC Rcd at 5115-16, para. 18; *AT&T-Leap Order*, 29 FCC Rcd at 2746, para. 23. See also *Mobile Spectrum Holdings Report and Order*, 29 FCC Rcd at 6224, para. 234 & n.623.

³⁴ See, e.g., *AT&T-CPI Order*, 31 FCC Rcd at 322, para. 11; *AT&T-Plateau Wireless Order*, 30 FCC Rcd at 5116, para. 19; *AT&T-Leap Order*, 29 FCC Rcd at 2748, para. 27.

significant effects of the transaction at the national level and we therefore analyze the transaction at the local level, using CMAs as the local geographic market.³⁵

13. *Input Market for Spectrum.* The Commission has determined in prior transaction orders that the following bands, or portions thereof, should be included in the input market: cellular, broadband PCS, SMR, 700 MHz band spectrum, Advanced Wireless Services in the 1710-1755 and 2110-2155 MHz band (AWS-1, on a market-by-market basis), Broadband Radio Service spectrum (BRS, on a market-by-market basis), Wireless Communications Service (WCS) spectrum, the 600 MHz band (at the conclusion of the Incentive Auction), Advanced Wireless Services in the 2000-2020 MHz and 2180-2200 MHz spectrum bands (AWS-4), H Block, additional BRS spectrum, the majority of the EBS spectrum, and the Advanced Wireless Services-3 (AWS-3) band (on a market-by-market basis as it becomes “available”).³⁶

14. *Record.* The Applicants argue that the applicable screen in this transaction should be 199 megahertz, given the recent availability of AWS-3 spectrum.³⁷ Specifically, the Applicants argue that in the *Mobile Spectrum Holdings Report and Order*, “the Commission said that it will count AWS-3 spectrum in the screen in a particular market ‘once all relocating Federal incumbent systems in that market are within three years of completing relocation, according to the Transition Plans.’”³⁸ The Applicants contend that under the transition plans posted on the National Telecommunications and Information Administration’s website, all federal incumbents in the 1695-1710 MHz portion of the AWS-3 band will be transitioned by April 29, 2018 (i.e., thirty-nine months from the end of the AWS-3 auction), less than three years from now.³⁹ Thus, the Applicants assert that the screen applied to this transaction should be raised by 5 megahertz (i.e., one-third of the 15 megahertz of AWS-3 spectrum that is within three years of being transitioned).⁴⁰

15. *Discussion.* The Commission concluded in the *Mobile Spectrum Holdings Report and Order* that the AWS-3 bands would be added to the input market for spectrum as they become available.⁴¹ Further, the Commission stated that the availability of the AWS-3 bands will depend on the nature of the Federal operations affecting each particular market.⁴² In addition, the Commission decided that particular bands of AWS-3 spectrum would be included in the spectrum screen in a particular market once all relocating Federal incumbent systems in that market are within three years of completing relocation, according to the timelines to be set in Transition Plans for different systems in different markets.⁴³ In the

³⁵ See, e.g., *AT&T-CPI Order*, 31 FCC Rcd at 322, para. 11; *AT&T-Plateau Wireless Order*, 30 FCC Rcd at 5116 para. 19; *AT&T-Leap Order*, 29 FCC Rcd at 2748, para. 27.

³⁶ *Mobile Spectrum Holdings Report and Order*, 29 FCC Rcd at 6169, para. 70; see also *AT&T-CPI Order*, 31 FCC Rcd at 323, para. 12; *AT&T-Plateau Wireless Order*, 30 FCC Rcd at 5117, para. 23; *AT&T-Club 42 Order*, 30 FCC Rcd at 13064-65, para. 21.

³⁷ Public Interest Statement at 10.

³⁸ *Id.*

³⁹ *Id.* at 10, n.27, citing Initial Estimated Costs and Timelines for the 1695-1710 MHz Band, National Telecommunications & Information Administration (May 12, 2014).

⁴⁰ Public Interest Statement at 10.

⁴¹ *Mobile Spectrum Holdings Report and Order*, 29 FCC Rcd at 6169, para. 70; see also *Amendment of the Commission’s Rules with Regard to Commercial Operations in the 1695-1710 MHz, 1755-1780 MHz, and 2155-2180 MHz Bands*, Report and Order, 29 FCC Rcd 4610 (2014) (*AWS-3 Report and Order*).

⁴² *Mobile Spectrum Holdings Report and Order*, 29 FCC Rcd at 6178, para. 101.

⁴³ *Mobile Spectrum Holdings Report and Order*, 29 FCC Rcd at 6178, para. 102; see also National Telecommunications and Information Administration (NTIA), NTIA Publishes Federal Agency Spectrum Transition Plans (July 16, 2014), <https://www.ntia.doc.gov/press-release/2014/ntia-publishes-federal-agency-spectrum-transition-plans>; NTIA, AWS-3 Transition, <https://www.ntia.doc.gov/category/aws-3-transition> for the publicly available Transition Plans (last visited Mar. 30, 2016); NTIA, Transition Plans and Transition Data for the 1695-

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AWS-3 Report and Order, the Commission allocated the 1695-1710 MHz band to fixed and mobile except aeronautical mobile services on a primary basis for non-Federal use.⁴⁴ The Commission also established 27 “Protection Zones” in the *AWS-3 Report and Order* within which operation by non-Federal users is subject to coordination requirements with Federal users.⁴⁵ For these 27 “Protected Zones,” the formal coordination process was allowed to begin 9 months after the close of the auction,⁴⁶ or October 29, 2015, and indefinite sharing within the protection zones is expected to begin 39 months after the close of the auction, or April 29, 2018, assuming that coordination is successful.⁴⁷ We therefore find that the 1695-1710 MHz band has satisfied the standard adopted by the Commission in the *Mobile Spectrum Holdings Report and Order* and should now be considered available, as well as suitable, on a nationwide basis. After newly including this 15 megahertz of the AWS-3 spectrum in the input market, the total amount of spectrum suitable and available for the provision of mobile telephony/broadband services is therefore increased to 595.5 megahertz, approximately one-third of which is 199 megahertz.

16. *Market Participants.* We apply recent Commission precedent and consider facilities-based entities providing mobile telephony/broadband services using cellular, PCS, SMR, 700 MHz, AWS-1, BRS, WCS, AWS-4, H Block, EBS, and AWS-3 (1695-1710 MHz) to be market participants.⁴⁸ Further, as AWS-3 (1755-1780 MHz and 2155-2180 MHz on a market-by-market basis) and 600 MHz spectrum become available, we will also consider facilities-based entities providing mobile telephony/broadband services using that spectrum to be market participants.

B. Competitive Effects of the Proposed Transaction

17. *Initial Review.* As discussed above, to help identify those local markets in which competitive concerns are more likely, initially we apply a two-part screen, and if the acquiring entity would increase its below-1-GHz spectrum holdings to hold approximately one-third or more of such

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1710 MHz Band (Oct. 29, 2015), <https://www.ntia.doc.gov/other-publication/2015/transition-plans-and-transition-data-1695-1710-mhz-band>.

⁴⁴ *AWS-3 Report and Order*, 29 FCC Rcd at 4684-85, paras. 198-199.

⁴⁵ *AWS-3 Report and Order*, 29 FCC Rcd at 4684-85, paras. 198-199; *see also id.* at 4725-27 (stating that prior to operating a base station that enables mobile or portable stations to transmit in the 1695-1710 MHz band, licensees must successfully coordinate such base station operations with Federal Government entities operating meteorological satellite Earth-station receivers in the 1675-1710 MHz band).

For a list of the 27 Protected Zones, *see* United States (U.S.) Footnotes, US88, *AWS-3 Report and Order*, 29 FCC Rcd at 4708-10; *The Federal Communications Commission and the National Telecommunications and Information Administration: Coordination Procedures in the 1695-1710 MHz and 1755-1780 MHz Bands*, 29 FCC Rcd 8527 (2014), 8529 (*FCC-NTIA Joint Coordination Procedures Public Notice*). *See also id.* at 8529 (stating that the 1695-1710 MHz band is used by the meteorological satellite (MetSat) service and details on the protected Federal MetSat operations that will continue to be protected on a primary basis in the 1675-1695 MHz band and a co-primary basis in the 1695-1710 MHz band are publicly available in the relevant Transition Plans.)

⁴⁶ *FCC-NTIA Joint Coordination Procedures Public Notice*, 29 FCC Rcd at 8536-37.

⁴⁷ NTIA, AWS-3 Transition, <https://www.ntia.doc.gov/category/aws-3-transition> for the publicly available Transition Plans (last visited Mar. 30, 2016); NTIA, Transition Plans and Transition Data for the 1695-1710 MHz Band (Oct. 29, 2015), <https://www.ntia.doc.gov/other-publication/2015/transition-plans-and-transition-data-1695-1710-mhz-band>.

⁴⁸ *See, e.g., AT&T-Plateau Wireless Order*, 30 FCC Rcd at 5117, para. 23; *AT&T-Leap Order*, 29 FCC Rcd at 2751, para. 35. The Commission has assessed the competitive effect of MVNOs and resellers in prior transactions but noted that it will exclude MVNOs and resellers from consideration when computing initial concentration measures. *See, e.g., AT&T-Plateau Wireless Order*, 30 FCC Rcd at 5117, para. 23 & n.78; *AT&T-Leap Order*, 29 FCC Rcd at 2752, para. 37.

spectrum post-transaction, we apply enhanced factor review.⁴⁹ The first part of the screen is based on the size of the post-transaction Herfindahl-Hirschman Index (HHI) and the change in the HHI.⁵⁰ Horizontal transactions raise potential competitive concerns when the merged entity has the incentive and the ability, either unilaterally or in coordination with other service providers, to raise prices, lower quality, or otherwise harm competition in a relevant market.⁵¹ The second part of the screen,⁵² which is applied on a county-by-county basis, identifies local markets where an entity would hold approximately one-third or more of the total spectrum suitable and available for the provision of mobile telephony/broadband services, post-transaction.⁵³

18. In our application of the two-part screen, we note first that the HHI screen is triggered in 12 of the thirty-eight CMAs. Applying the total spectrum screen on a county-by-county basis Sprint newly triggers 29 counties in all or parts of 9 of the thirty-eight markets.⁵⁴ In addition, we note that Sprint

⁴⁹ See, e.g., *AT&T-CPI Order*, 31 FCC Rcd at 323, para. 12; *AT&T-Club 42 Order*, 30 FCC Rcd at 13065-66, para. 23; *AT&T-Plateau Wireless Order*, 30 FCC Rcd at 5118, para. 24; *Mobile Spectrum Holdings Report and Order*, 29 FCC Rcd at 6240, para. 286.

⁵⁰ The initial HHI screen identifies, for further case-by-case market analysis, those markets in which, post-transaction: (1) the HHI would be greater than 2800 and the change in HHI would be 100 or greater; or (2) the change in HHI would be 250 or greater, regardless of the level of the HHI. See, e.g., *AT&T-CPI Order*, 31 FCC Rcd at 323, para. 13 & n.41; *AT&T-Plateau Wireless Order*, 30 FCC Rcd at 5118, para. 24; *AT&T-Leap Order*, 29 FCC Rcd at 2753, para. 41 & n.140.

⁵¹ See, e.g., *AT&T-CPI Order*, 31 FCC Rcd at 323-24, para. 13; *AT&T-Plateau Wireless Order*, 30 FCC Rcd at 5114, para. 16; *AT&T-Leap Order*, 29 FCC Rcd at 2744-46, para. 21. Unilateral effects arise when the merged firm finds it profitable to alter its behavior following the merger by increasing its price or otherwise harming competition. Horizontal Merger Guidelines, U.S. Department of Justice and the Federal Trade Commission, August 19, 2010, at § 6, p. 20 (*2010 DOJ/FTC Horizontal Merger Guidelines*). In the case of the provision of mobile wireless services, in addition to increasing prices, this might take the form of delaying improvements in service quality, adversely adjusting the features of a service offering without changing the price of the plan, or reducing the rate of new product development or other innovation in a relevant market. See, e.g., *AT&T-CPI Order*, 31 FCC Rcd at 323-24, para. 13 & n. 42; *AT&T-Plateau Wireless Order*, 30 FCC Rcd at 5119, para. 26; *AT&T-Leap Order*, 29 FCC Rcd at 2756-57, para. 49.

Coordinated effects arise when firms take actions that are profitable for each of them only as a result of the accommodating reactions of others. A merger may diminish competition by enabling or encouraging post-merger coordinated interaction among firms in the relevant market that harms customers. *2010 DOJ/FTC Horizontal Merger Guidelines* at § 7, p. 24. See also *AT&T-CPI Order*, 31 FCC Rcd at 323-24, para. 13 & n. 42; *AT&T-Plateau Wireless Order*, 30 FCC Rcd at 5119, para. 26; *AT&T-Leap Order*, 29 FCC Rcd at 2756-57, para. 49. Either or both unilateral and coordinated effects may arise from a proposed transaction, and the distinction between them is not always clear cut. See, e.g., *AT&T-CPI Order*, 31 FCC Rcd at 323-24, para. 13 & n. 42; *AT&T-Plateau Wireless Order*, 30 FCC Rcd at 5119, para. 26; *AT&T-Leap Order*, 29 FCC Rcd at 2757, para. 49.

⁵² As we are newly adding 15 megahertz of AWS-3 spectrum to the screen, the trigger is increased from its current 194 megahertz to 199 megahertz in those areas where AWS-1 and BRS/EBS spectrum are available.

⁵³ See, e.g., *AT&T-CPI Order*, 31 FCC Rcd at 323-24, para. 13; *AT&T-Club 42 Order*, 30 FCC Rcd at 13065-66, para. 23; *AT&T-Plateau Wireless Order*, 30 FCC Rcd at 5118, para. 24. In instances where an applicant is gaining spectrum below 1 GHz, we also carefully examine the possible competitive effects resulting from an increase in below-1-GHz spectrum holdings that would be above the threshold identified in the *Mobile Spectrum Holdings Report and Order*. *Mobile Spectrum Holdings Report and Order*, 29 FCC Rcd at 6233, 6240, paras. 267, 286-88; see also, e.g., *AT&T-CPI Order*, 31 FCC Rcd at 323-24, para. 13; *AT&T-Club 42 Order*, 30 FCC Rcd at 13065-66, para. 23; *AT&T-Plateau Wireless Order*, 30 FCC Rcd at 5118, para. 24. No low-band spectrum is being assigned in the instant transaction and therefore we do not apply enhanced factor review.

⁵⁴ The CMAs triggered by the newly revised spectrum screen are: CMA 157 (Roanoke, VA), CMA 203 (Lynchburg, VA), CMA 225 (Altoona, PA), CMA 256 (Charlottesville, VA), CMA 622 (Pennsylvania 11 – Huntingdon), CMA 683 (Virginia 3 – Giles), CMA 684 (Virginia 4 – Bedford), CMA 685 (Virginia 5 – Bath), and CMA 686 (Virginia 6 – Highland).

already holds 200.5 megahertz of spectrum in Perry County in CMA 594 (Ohio 10 – Perry) covering approximately 20 percent of the market’s population, and would increase its holdings further to 215.5 megahertz as a result of the transaction. In our review below, we therefore look more closely at the potential competitive effects that the proposed post-transaction spectrum holdings and increased market concentration may have.⁵⁵

19. *Record.* The Applicants agree that the proposed transaction will result in the spectrum screen being exceeded in 29 counties and that Sprint currently exceeds the screen in one additional county,⁵⁶ but argue that in twelve of these thirty counties, the screen is exceeded by 10 megahertz or less.⁵⁷ The Applicants argue that the overages are the result of attributable EBS spectrum rights, and not spectrum below 1 GHz, and that, except for those EBS lease rights held by Sprint, NTELOS already leases all of Sprint’s spectrum in the areas covered by the current Sprint-NTELOS Strategic Network Alliance agreement under long-term *de facto* leases approved by the Commission.⁵⁸ The Applicants argue therefore that the only additional spectrum concerns are due to the aggregation of Sprint’s EBS lease rights to the parties’ combined holdings.⁵⁹ The Applicants assert that the proposed spectrum aggregation will not create a risk of anti-competitive foreclosure, arguing that the transaction primarily involves mid- and high-band spectrum, the Applicants’ competitors will continue to hold extensive spectrum rights, and the Commission is making available a large amount of highly valuable spectrum through its auction process.⁶⁰

20. The Applicants also argue that the proposed transaction will not reduce competition for wireless services in the relevant geographic markets because Sprint and NTELOS are both dependent on the other rather than operating as truly independent competitors.⁶¹ Sprint states that the company does not have its own network infrastructure in many of the areas where NTELOS has its own network coverage and that NTELOS is dependent on Sprint as its largest customer.⁶² The Applicants assert that the competitive challenges facing NTELOS as a smaller, regional provider, are exacerbated by the company’s dependence on Sprint for revenue, leased spectrum, and roaming outside the NTELOS footprint.⁶³ The Applicants argue that Sprint is not a particularly strong competitor in the areas served by NTELOS and that the proposed transaction will strengthen competition by increasing network investment, which will give consumers an improved, competitive option with better service.⁶⁴ Further, the Applicants claim that the transaction would not create competitive concerns resulting from an increase in concentration.⁶⁵

21. *Market-Specific Review.* Generally, in undertaking our analysis, we consider various competitive variables that help to predict the likelihood of competitive harm post-transaction. These

⁵⁵ We note that the following six markets in Virginia trigger both the HHI screen and the spectrum screen: CMA 157 (Roanoke, VA), CMA 203 (Lynchburg, VA), CMA 256 (Charlottesville, VA), CMA 684 (Virginia 4 – Bedford), CMA 685 (Virginia 5 – Bath), and CMA 686 (Virginia 6 – Highland).

⁵⁶ Public Interest Statement at 10.

⁵⁷ *Id.*

⁵⁸ *Id.* at 10-11 & n. 29.

⁵⁹ *Id.* at 11.

⁶⁰ *Id.* at 11-12.

⁶¹ *Id.* at 6-7.

⁶² *Id.* at 6-7.

⁶³ *Id.* at 7-8.

⁶⁴ *Id.* at 7. The Applicants note that Shentel does not hold any spectrum licenses and only provides wireless service through its affiliate relationship with Sprint. *Id.*

⁶⁵ *Id.* at 8.

competitive variables include, but are not limited to: the total number of rival service providers; the number of rival firms that can offer competitive service plans; the coverage by technology of the firms' respective networks; the rival firms' market shares; the combined entity's post-transaction market share and how that share changes as a result of the transaction; the amount of spectrum suitable for the provision of mobile telephony/broadband services controlled by the combined entity; and the spectrum holdings of each of the rival service providers.⁶⁶

22. *Competitive Evaluation.* We disagree with various of the Applicants' general arguments that this transaction as originally proposed presents limited competitive impacts. First, we disagree with the assertion that the instant transaction only involves the additional aggregation of Sprint's EBS lease rights to the parties' combined holdings.⁶⁷ As a result of the instant transaction, Sprint would be acquiring from NTELOS varying amounts of PCS, AWS-1, and BRS spectrum in which Sprint holds no current interest. When added to Sprint's currently attributable spectrum, Sprint's holdings trigger the spectrum screen by a significant amount. Specifically, we find that the transaction as originally proposed has some potential to harm the public interest through foreclosure or raising rivals' costs, given Sprint's proposed post-transaction spectrum holdings, in certain markets in Virginia, as discussed below. Further, we disagree with the Applicants' assertion that the proposed transaction will not reduce competition in these markets. As a result of the proposed transaction, the seventh largest independent facilities-based service provider in the United States would be exiting the mobile wireless marketplace.⁶⁸ In many of the markets implicated by the proposed transaction, the number of service providers with a significant market share would be reduced, and furthermore, in certain markets, the number of service providers with a significant market share would be reduced from four to three. This raises some potential competitive concerns with respect to increased market concentration. We begin with our analysis of the Virginia markets, and then turn to our analysis of the West Virginia markets. Finally, we evaluate the remaining markets subject to the instant transaction in parts of Kentucky, Maryland, North Carolina, Ohio and Pennsylvania.

23. *Virginia Markets.* We begin with our evaluation of the cluster of 15 markets in Virginia.⁶⁹ Of these 15 markets, six markets trigger both the HHI screen and the spectrum screen: CMA 157 (Roanoke, VA), CMA 203 (Lynchburg, VA), CMA 256 (Charlottesville, VA), CMA 684 (Virginia 4 – Bedford), CMA 685 (Virginia 5 – Bath), and CMA 686 (Virginia 6 – Highland).⁷⁰ In addition, two

⁶⁶ We derive market shares and HHIs from our analysis of data compiled in our June 2015 NRUF and LNP database, network coverage from July 2015 Mosaik data and 2010 U.S. Census data, and spectrum holdings from our licensing databases and the Applications. We also utilized and analyzed additional data as provided by the Applicants through our information requests. See, e.g., *AT&T-CPI Order*, 31 FCC Rcd at 325, para. 16 & n.51; *AT&T-Plateau Wireless Order*, 30 FCC Rcd at 5120, para. 29 & n.98.

⁶⁷ See *supra* para. 19.

⁶⁸ While NTELOS has various agreements with Sprint, it has operated as an independent facilities-based service provider – providing an NTELOS-branded service with NTELOS pricing plans in competition with Sprint offerings.

⁶⁹ As a result of the instant transaction, Sprint would also acquire an additional 30 megahertz to 105.3 megahertz of spectrum in at least one county in the following five markets: CMA 681 (Virginia 1 – Lee), CMA 682 (Virginia 2 – Tazewell), CMA 687 (Virginia 7 – Buckingham), CMA 688 (Virginia 8 – Amelia), and CMA 691 (Virginia 11 – Madison). These markets do not trigger our two-part screen, nor do we find any particular factor that would lead us to undertake further competitive review. Further, in CMA 59 (Richmond, VA), NTELOS is currently leasing spectrum from Sprint in Goochland County, and consequently, there is no increase in Sprint's attributable spectrum holdings as a result of the proposed transaction in this local market.

⁷⁰ Roanoke is a non-rural market with a population of approximately 253,000 and a population density of 214. Lynchburg is a non-rural market with a population of approximately 178,000 and a population density of 130. Charlottesville is a non-rural market with a population of approximately 187,000 and a population density of 159. Virginia 4 – Bedford is a non-rural market with a population of approximately 199,000 and a population density of 108. Virginia 5 – Bath is a rural market with a population of approximately 63,000 and a population density of 40. Virginia 6 – Highland is a rural market with a population of approximately 261,000 and a population density of 95.

markets trigger the HHI screen only – CMA 262 (Danville, VA) and CMA 690 (Virginia 10 – Frederick) – and one market triggers the spectrum screen only – CMA 683 (Virginia 3 – Giles).⁷¹ Based upon our evaluation of this market cluster, we find some potential for some competitive harms from increased spectrum aggregation, and we also note that consumer choice would be reduced due to the loss of an independent facilities-based service provider with significant market share.

24. Increased Spectrum Aggregation. In the seven Virginia markets triggered by the newly revised spectrum screen, Sprint, post-transaction, would hold a maximum of 240.5 megahertz of spectrum in total, which is approximately 40 megahertz above the newly revised screen of 199 megahertz. Specifically, as a result of the instant transaction, Sprint would hold up to 240.5 megahertz of spectrum in all or parts of Roanoke, Virginia 3 – Giles, Virginia 4 – Bedford, and Virginia 5 – Bath, 204.9 megahertz of spectrum in all or parts of Lynchburg and Charlottesville, and 222.7 megahertz of spectrum in parts of Virginia 6 – Highland. The four other service providers with competitive presence in some or all of these markets, AT&T, T-Mobile, USCC, and Verizon Wireless, have spectrum holdings ranging from just 12 megahertz to 132 megahertz of spectrum.⁷² Of note is that Sprint's post-transaction spectrum holdings are substantially higher than its rival service providers in these seven markets – indeed at least double in certain markets such as Roanoke or Lynchburg. We find that this level of spectrum aggregation potentially could result in competitive harms through raising rival service providers' costs or foreclosure.

25. Exit of a Facilities-Based Service Provider. In those eight markets that trigger the HHI screen,⁷³ we begin by noting that NTELOS has a significant market share in all of the markets, with the exception of Virginia 10 – Frederick.⁷⁴ NTELOS's market share pre-transaction ranges from approximately [REDACTED] percent. Post-transaction, Sprint's market share, attributing the Sprint-branded Shentel subscribers, would range from approximately [REDACTED] percent.⁷⁵ Further, based on our analysis of the porting data, in two of the markets in this cluster, NTELOS and Sprint are relatively close substitutes.⁷⁶ In terms of population and land area coverage,⁷⁷ we note that based on Mosaik,

⁷¹ Danville is a non-rural market with a population of approximately 107,000 and a population density of 105. Virginia 10 – Frederick is a non-rural market with a population of approximately 295,000 and a population density of 116. Virginia 3 – Giles is a rural market with a population of approximately 227,000 and a population density of 94.

⁷² AT&T's spectrum holdings range from 68 megahertz to 98 megahertz, while T-Mobile's spectrum holdings range from 30 megahertz to 60 megahertz, USCC's spectrum holdings range from 12 megahertz to 49 megahertz, and Verizon Wireless's holdings range from 97 megahertz to 132 megahertz. In addition, DISH holds 66 megahertz to 71 megahertz across these markets, while Continuum 700 currently holds 12 megahertz of spectrum in Charlottesville, and parts of Virginia 6 – Highland, and Cavalier Wireless currently holds 12 megahertz of spectrum in all or parts of Virginia 3 – Giles, Virginia 4 – Bedford, Virginia 5 – Bath, and Virginia 6 – Highland.

⁷³ The post-transaction HHI in each of Roanoke, Lynchburg, Charlottesville, Danville, Virginia 4 – Bedford, Virginia 5 – Bath, Virginia 6 – Highland, and Virginia 10 – Frederick would be [REDACTED], respectively, with a change in the HHI of [REDACTED], respectively, in these eight markets.

⁷⁴ While Virginia 10 – Frederick does trigger the HHI screen, NTELOS does not have a significant market share or significant 3G or better coverage in this market. Accordingly, there would be no reduction in the number of significant service providers as a result of the proposed transaction. We find no reason for further competitive review of this particular market.

⁷⁵ Across Roanoke, Lynchburg, Charlottesville, Danville, Virginia 4 – Bedford, Virginia 5 – Bath, and Virginia 6 – Highland, AT&T's market share ranges from approximately [REDACTED]%, while Verizon Wireless's market share ranges from approximately [REDACTED]%. T-Mobile's market share in the six markets in which it has at least some market presence ranges from approximately [REDACTED]%, while USCC's market share in the five markets in which it has a significant market share ranges from approximately [REDACTED]%. In each of these markets, there would be at least three other service providers with a significant market share post-transaction.

⁷⁶ In Danville and Virginia 6 – Highland, approximately [REDACTED]% of NTELOS's subscribers who ported out ported to Sprint, more than to any other service provider, and approximately [REDACTED]% of Sprint's subscribers who ported out ported to NTELOS. In each of Roanoke, Lynchburg, Charlottesville, Virginia 3 – Giles,

(continued....)

NTELOS has significant 3G population coverage in all these eight markets, with the exception of Virginia 3 – Giles.⁷⁸ In addition, NTELOS has also built out an LTE network that covers at least 70 percent of the population in Roanoke, Charlottesville, and Virginia 6 – Highland, while in the other markets in the cluster, it covers at least approximately 40 percent of the population with LTE.⁷⁹ Two service providers, AT&T and Verizon Wireless, have significant 3G population and land area coverage in these Virginia markets.⁸⁰ Furthermore, these same two service providers have significant LTE population and land area coverage in most of these markets.⁸¹ In the markets in which USCC has a significant market share, with the exception of Virginia 5 – Bath, it also has significant 3G population and land area coverage, and some quite extensive LTE coverage.⁸² In the markets in which T-Mobile has at least some market presence, it

(Continued from previous page)

Virginia 4 – Bedford, and Virginia 5 – Bath, approximately [REDACTED]% of NTELOS's subscribers who ported out ported to Sprint and approximately [REDACTED]% of Sprint's subscribers who ported out ported to NTELOS. 2014 LNP data; NTLIS-001072; Letter from James B. Goldstein, Senior Counsel, Government Affairs, Sprint Corporation, to Marlene H. Dortch, Secretary, Federal Communications Commission (Feb. 12, 2016) (Sprint Amended Information Request Response).

⁷⁷ It has previously been found that coverage of 70% or more of the population and 50% or more of the land area is presumptively sufficient for a service provider to have a competitive presence in the market. See, e.g., *AT&T-CPI Order*, 31 FCC Rcd at 325-26, para. 18 & n.56; *AT&T-Plateau Wireless Order*, 30 FCC Rcd at 5121, para. 31 & n.102; *AT&T-Leap Order*, 29 FCC Rcd at 2770, para. 81 & n.279.

⁷⁸ In Virginia 3 – Giles, NTELOS covers approximately 68% of the population with 3G, while in the other seven markets in this cluster, its 3G population coverage is at least approximately 73%. NTELOS does not have significant 3G land area coverage in any of these markets, with the exception of Virginia 4 – Bedford, in which it covers approximately 53% of the land area. Otherwise, its 3G land area coverage ranges from approximately 26% to 45%.

According to our analysis of the data submitted by the Applicants, in each of Roanoke, Lynchburg, Charlottesville, Danville, Virginia 3 – Giles, Virginia 4 – Bedford, Virginia 5 – Bath, and Virginia 6 – Highland, NTELOS covers approximately [REDACTED]% of the population with 3G, and approximately [REDACTED]% of the land area. NTELOS Information Request Response at 6, NTLIS-001066, NTLIS-001067, NTLIS-001068.

⁷⁹ According to our analysis of the data submitted by the Applicants, in each of Roanoke, Lynchburg, Charlottesville, Danville, Virginia 3 – Giles, Virginia 4 – Bedford, Virginia 5 – Bath, and Virginia 6 – Highland, NTELOS covers approximately [REDACTED]% of the population with LTE, while the comparable LTE land area percentages are approximately [REDACTED]%, respectively. NTELOS Information Request Response at 6, NTLIS-001066, NTLIS-001067, NTLIS-001068.

⁸⁰ In terms of their respective 3G networks, AT&T covers at least approximately 90% of the population and 63% of the land area, while Verizon Wireless covers at least approximately 89% of the population and 59% of the land area.

⁸¹ In terms of their respective LTE networks, in the four markets in which A&T has significant LTE coverage, it covers at least approximately 94% of the population and 63% of the land area while, with the exception of Virginia 5 – Bath, Verizon Wireless covers at least approximately 91% of the population and 62% of the land area with LTE. In addition, AT&T has significant LTE population coverage and close to significant land area coverage in Roanoke, covering approximately 95% of the population and 48% of the land area, while Verizon Wireless has significant LTE population coverage and close to significant land area coverage in Virginia 5 – Bath, covering approximately 85% of the population and 49% of the land area with LTE. Further, in each of Virginia 3 – Giles, Virginia 4 – Bedford, and Virginia 5 – Bath, AT&T covers at least approximately 53% of the population and 32% of the land area with LTE.

⁸² USCC covers at least approximately 97% of the population and at least approximately 75% of the land area with 3G. In Virginia 5 – Bath, it covers approximately 83% of the population and 45% of the land area with 3G. In terms of its LTE network, it has significant LTE coverage in Lynchburg, covering approximately 90% of the population and 59% of the land area. Otherwise, its LTE population coverage ranges from approximately 45% to approximately 91%, and its LTE land area coverage ranges from approximately 27% to approximately 49%, with the exception of Charlottesville, in which it covers approximately 2% of the population and 6% of the land area only.

covers at least half the population with 3G, and with the exception of Virginia 4 – Bedford, it covers close to 70 percent of the population with LTE.⁸³

26. *Evaluation.* Based on our review of the underlying characteristics in this market cluster, we find that the transaction as proposed in the original applications potentially could foreclose rivals' entry or expansion or raise their costs due to Sprint's increased spectrum aggregation of up to 40 megahertz above the screen. As noted above, Sprint's spectrum holdings in these markets are substantially higher, indeed more than double in some markets, than the spectrum holdings of the other significant market participants. Further, given our review of the pleadings, data, and documents, we also have some concerns as to whether the Applicants would use all of the spectrum they propose to acquire from NTELOS to provide the public interest benefits as set out in Section IV.⁸⁴ In addition, we note the reduction in the competitive service offerings that would be available in these markets post-transaction as a result of the exit of NTELOS. We conclude that the proposed spectrum divestitures in Virginia, as discussed below, help ameliorate the potential competitive harms associated with Sprint's post-transaction spectrum holdings. Further, we note that the Applicants' commitments with respect to the expansion and densification of the current NTELOS network will help ensure that the public interest benefits in these markets will be fully realized on a timely basis.

27. *West Virginia Markets.* We turn next to our review of the West Virginia markets at issue in the proposed transaction. We note that four local markets in this cluster of 12 markets trigger the HHI screen: CMA 110 (Huntington-Ashland, WV-KY-OH), CMA 140 (Charleston, WV), CMA 703 (West Virginia 3 – Monongalia), and CMA 707 (West Virginia 7 – Raleigh).⁸⁵

28. *Increased Spectrum Aggregation.* No markets in this cluster trigger the spectrum screen.⁸⁶ In terms of spectrum holdings, Sprint's spectrum holdings would range from 64 megahertz to 186.5 megahertz as the result of the transaction as proposed in the original applications. The other three nationwide providers' spectrum holdings range from 20 megahertz to 143 megahertz of spectrum across these four markets.⁸⁷ In addition, USCC holds 12 megahertz to 59 megahertz of spectrum across the four markets.

⁸³ T-Mobile's 3G population coverage in the markets in which it has at least some market presence ranges from approximately 54% to approximately 91%, while its 3G land area coverage is more limited, ranging from approximately 23% to approximately 39%. In terms of its LTE network, T-Mobile's LTE population coverage ranges from approximately 48% to approximately 86%, while its LTE land area coverage is more limited, ranging from approximately 19% to approximately 30%.

⁸⁴ SPRINT-FCC-01-4c-000946 at 9 (evaluating the value of the [REDACTED]); see also SPRINT-FCC-01-4c-001013 at 19 (stating that [REDACTED]).

⁸⁵ Huntington-Ashland is a non-rural market with a population of approximately 315,000 and a population density of 146. Charleston is a non-rural market with a population of approximately 249,000 and a population density of 199. West Virginia 3 – Monongalia is a non-rural market with a population of approximately 289,000 and a population density of 128. West Virginia 7 – Raleigh is a rural market with a population of approximately 250,000 and a population density of 71.

⁸⁶ As a result of the instant transaction, Sprint would also acquire an additional 15 megahertz to 81.5 megahertz of spectrum in at least one county in the following markets: CMA 178 (Wheeling, WV-OH), CMA 200 (Parkersburg-Marietta, OH-WV), CMA 269 (Cumberland, MD-WV), CMA 701 (West Virginia 1 – Mason), CMA 702 (West Virginia 2 – Wetzel), CMA 704 (West Virginia 4 – Grant), CMA 705 (West Virginia 5 – Tucker), and CMA 706 (West Virginia 6 – Lincoln). These markets do not trigger our two-part screen, nor do we find any particular factor that would lead us to undertake further competitive review.

⁸⁷ Across the four markets, AT&T holds 113 megahertz to 143 megahertz, Verizon Wireless holds 62 megahertz to 127 megahertz, and T-Mobile holds 20 megahertz to 40 megahertz. In addition, DISH holds 61 megahertz to 71 megahertz of spectrum, Appalachian Wireless holds 12 megahertz of spectrum in Huntington-Ashland, MCG PCS holds 10 megahertz in Charleston, and 10 megahertz in parts of West Virginia 7 – Raleigh, and Cavalier Wireless holds 12 megahertz in part of West Virginia 7 – Raleigh.

29. Exit of a Facilities-Based Service Provider. In those four markets that trigger the HHI screen,⁸⁸ we begin by noting NTELOS has a significant market share in all four. NTELOS's market share pre-transaction ranges from approximately [REDACTED] percent across the four markets. Post-transaction, Sprint's market share, attributing the Sprint-branded Shentel subscribers, would range from approximately [REDACTED] percent.⁸⁹ The number of service providers with a significant market share would be reduced from four to three in Huntington-Ashland and Charleston, raising greater concern than in West Virginia 3 – Monongalia and West Virginia 7 – Raleigh, where the number would be reduced from five to four.⁹⁰ In terms of population and land area coverage, we note that based on Mosaik, NTELOS has significant 3G population coverage in Charleston, West Virginia 3 – Monongalia, and West Virginia 7 – Raleigh, and close to significant 3G population coverage in Huntington-Ashland.⁹¹ In addition, NTELOS has also built out an LTE network that covers at least approximately 57 percent of the population across these four markets.⁹² AT&T has significant 3G and LTE coverage in all four markets, while Verizon Wireless has significant LTE coverage in all four markets, but does not have significant 3G coverage in West Virginia 3 – Monongalia, and West Virginia 7 – Raleigh.⁹³ In addition, USCC has significant 3G and LTE population and land area coverage in West Virginia 3 – Monongalia, and West Virginia 7 – Raleigh.⁹⁴ No other service provider has significant 3G or LTE population and land area coverage in the four markets at issue.

30. *Evaluation.* Based on our review of the underlying characteristics in this market cluster,

⁸⁸ The post-transaction HHIs in each of Huntington-Ashland, Charleston, West Virginia 3 – Monongalia, and West Virginia 7 – Raleigh would be [REDACTED], respectively, with a change in the HHI of [REDACTED], respectively, in these four markets.

⁸⁹ Across Huntington-Ashland, Charleston, West Virginia 3 – Monongalia, and West Virginia 7 – Raleigh, AT&T's market share ranges from approximately [REDACTED]%, while Verizon Wireless's market share ranges from approximately [REDACTED]%. In addition, USCC has a market share of approximately [REDACTED]% in West Virginia 3 – Monongalia, and approximately [REDACTED]% in West Virginia 7 – Raleigh.

⁹⁰ Based on our analysis of the porting data, approximately [REDACTED]% of NTELOS's subscribers who ported out ported to Sprint and approximately [REDACTED]% of Sprint's subscribers who ported out ported to NTELOS. 2014 LNP data; NTLS-001072; Sprint 2014 LNP data; NTLS-001072; Sprint Amended Information Request Response.

⁹¹ In each of Charleston, West Virginia 3 – Monongalia and West Virginia 7 – Raleigh, NTELOS covers at least approximately 74% of the population and approximately 29% of the land area with 3G. In Huntington-Ashland, the respective percentages are approximately 69% and 16%.

According to our analysis of the data submitted by the Applicants, in each of Huntington-Ashland, Charleston, West Virginia 3 – Monongalia, and West Virginia 7 – Raleigh, NTELOS covers approximately [REDACTED]% of the population with 3G, and approximately [REDACTED] % of the land area. NTELOS Information Request Response at 6, NTLS-001066, NTLS-001067, NTLS-001068.

⁹² According to our analysis of the data submitted by the Applicants, in each of Huntington-Ashland, Charleston, West Virginia 3 – Monongalia, and West Virginia 7 – Raleigh, NTELOS covers approximately [REDACTED]% of the population with LTE, while the comparable LTE land area percentages are approximately [REDACTED]%, respectively. NTELOS Information Request Response at 6, NTLS-001066, NTLS-001067, NTLS-001068.

⁹³ In terms of their respective 3G networks, AT&T covers at least approximately 99% of the population and 95% of the land area, while Verizon Wireless covers at least approximately 94% of the population and 73% of the land area in Huntington-Ashland, and Charleston, and at least approximately 68% of the population and 38% of the land area in West Virginia 3 – Monongalia, and West Virginia 7 – Raleigh. In terms of their respective LTE networks, AT&T covers at least approximately 82% of the population and 60% of the land area, while Verizon Wireless covers at least approximately 84% of the population and 59% of the land area with LTE coverage.

⁹⁴ In West Virginia 3 – Monongalia, USCC covers approximately 91% of the population and 79% of the land area with 3G and LTE, while in West Virginia 7 – Raleigh, it covers approximately 80% of the population and 66% of the land area with 3G and LTE.

we note first that we do not find that spectrum divestitures are necessary in West Virginia to address any potential competitive concerns. We note however that the number of service providers with a significant market share would be reduced from four to three in two of the four markets we evaluated, namely Huntington-Ashland and Charleston. Further, NTELOS has a significant market share in all four markets, and as also discussed above, there would be a reduction in the competitive service offerings that would be available in these markets post-transaction as a result of the exit of NTELOS. In addition, NTELOS has significant, or close to significant, 3G population coverage in these markets. To the extent that we have potential competitive concerns arising from increased market concentration, we note that the Applicants' commitments with respect to the expansion and densification of the current NTELOS network will help ensure that the public interest benefits in these markets will be fully realized on a timely basis.

31. *Kentucky, Maryland, North Carolina, Ohio, and Pennsylvania Markets.* Finally, we evaluate the remaining 11 markets, where we find, for the reasons set out below, that the likelihood of competitive harm is low. We note first that no markets in Kentucky, Maryland, or North Carolina trigger our two-part screen.⁹⁵ In Ohio, Sprint would increase its spectrum holdings in Perry County in CMA 594 (Ohio 10 – Perry), which includes only approximately 20 percent of the market's population, from 200.5 megahertz to 215.5 megahertz as a result of the instant transaction.⁹⁶ Given rival service providers' market shares, spectrum holdings, and current 3G and LTE coverage by rival service providers across the entire market, we find that the incremental competitive effect of Sprint acquiring an additional 15 megahertz of PCS spectrum in Perry County is unlikely to lead to competitive harm in the market as a whole.

32. Two CMAs in Pennsylvania, CMA 225 (Altoona, PA) and CMA 622 (Pennsylvania 11 – Huntingdon), each trigger the spectrum screen.⁹⁷ As a result of the instant transaction, Sprint would hold 212.7 megahertz of spectrum in Altoona and in Huntingdon County, which includes approximately 39 percent of the population of Pennsylvania 11 – Huntingdon. The other three nationwide providers' spectrum holdings range from 70 megahertz to 125 megahertz of spectrum across the two markets.⁹⁸ In each of the CMAs, the two leading nationwide service providers, AT&T and Verizon Wireless, have significant market shares.⁹⁹ In addition, Sprint has a significant market share in Altoona, while T-Mobile has some market presence there. Sprint also has some market presence in Pennsylvania 11 –

⁹⁵ As a result of the instant transaction, Sprint would also acquire an additional 20 megahertz to 30 megahertz of spectrum in at least one county in the following markets: CMA 257 (Hagerstown, MD), CMA 450 (Kentucky 8 – Mason), CMA 451 (Kentucky 9 – Elliott), CMA 467 (Maryland 1 – Garrett) and CMA 571 (North Carolina 7 – Rockingham). These markets do not trigger our two-part screen, nor do we find any particular factor that would lead us to undertake further competitive review.

⁹⁶ As a result of the instant transaction, Sprint would also acquire an additional 15 megahertz to 30 megahertz of spectrum in at least one county in the following markets: CMA 591 (Ohio 7 – Tuscarawas), and CMA 593 (Ohio 9 – Ross). These markets do not trigger our two-part screen, nor do we find any particular factor that would lead us to undertake further competitive review.

⁹⁷ As a result of the instant transaction, Sprint would also acquire an additional 15 megahertz to 20 megahertz of PCS spectrum in CMA 621 (Pennsylvania 10 – Bedford). This market does not trigger our two-part screen, nor do we find any particular factor that would lead us to undertake further competitive review.

⁹⁸ Across the two markets, AT&T holds 103 megahertz to 125 megahertz, Verizon Wireless holds 87 megahertz to 97 megahertz, and T-Mobile holds 70 megahertz to 90 megahertz. In addition, DISH holds 71 megahertz of spectrum in each market, Continuum 700 holds 12 megahertz of spectrum in Altoona, while MCG PCS holds 12 megahertz in Altoona, and 10 megahertz in parts of Pennsylvania 11 – Huntingdon, and Cavalier Wireless holds 12 megahertz in Pennsylvania 11 – Huntingdon.

⁹⁹ AT&T's market share in each of Altoona and Pennsylvania 11 – Huntingdon is [REDACTED]%, respectively, while Verizon Wireless's market share is approximately [REDACTED]%, respectively.

Huntingdon.¹⁰⁰ In terms of population and land area coverage, the two leading nationwide service providers, AT&T and Verizon Wireless, have significant 3G and LTE coverage.¹⁰¹ In addition, Sprint has significant 3G and LTE coverage in Altoona, and covers over 40 percent of the population with both in Pennsylvania 11 – Huntingdon.¹⁰² We note that NTELOS has no market presence or market coverage in either of these two markets and that accordingly, the instant transaction would not reduce the current number of significant service providers.

33. *Evaluation.* Based on our review of the underlying market characteristics, including rival service providers' market shares, spectrum holdings, and current 3G and LTE coverage by rival service providers across these markets, we find overall that the acquisition of the NTELOS spectrum by Sprint, although increasing its spectrum holdings to a maximum of 212.7 megahertz in Altoona and part of Pennsylvania 11 – Huntingdon, is unlikely to foreclose rival service providers from entering or expanding in these two local markets, and is unlikely to raise rivals' costs.¹⁰³ We find therefore that the proposed transaction is unlikely to materially lessen the ability of rival service providers to respond to any anticompetitive behavior on the part of Sprint/Shentel, and the likelihood of competitive harm is low in these two local markets.

IV. POTENTIAL PUBLIC INTEREST BENEFITS

34. We next consider whether the proposed transaction is likely to generate verifiable, transaction-specific public interest benefits.¹⁰⁴ Under Commission precedent, the Applicants bear the burden of demonstrating the potential public interest benefits of a proposed transaction.¹⁰⁵ The Commission applies several criteria in deciding whether a claimed benefit is cognizable. First, each claimed benefit must be transaction specific.¹⁰⁶ That is, the claimed benefit must be likely to occur as a result of the transaction and unlikely to be realized without the transaction or by a practical alternative that would raise fewer competitive concerns than the proposed transaction.¹⁰⁷ Second, each claimed

¹⁰⁰ In each of Altoona and Pennsylvania 11 – Huntingdon, Sprint has a market share of approximately [REDACTED]%, respectively, while T-Mobile has a market share of approximately [REDACTED]%, respectively.

¹⁰¹ In terms of their respective 3G networks, in each of Altoona and Pennsylvania 11 – Huntingdon, AT&T covers at least approximately 98% of the population and the land area, while Verizon Wireless covers at least approximately 90% of the population, and at least approximately 76% of the land area. In terms of their respective LTE networks, in each of Altoona and Pennsylvania 11 – Huntingdon, AT&T covers at least approximately 83% of the population, and at least approximately 67% of the land area, while Verizon Wireless covers at least approximately 87% of the population, and at least approximately 70% of the land area.

¹⁰² Sprint's 3G and LTE networks both cover approximately 89% of the population and 50% of the land area in Altoona, while the comparable percentages for Pennsylvania 11 – Huntingdon are approximately 44% and 23% respectively. According to Mosaik, T-Mobile has no 3G or better coverage in Altoona, while it has built out to cover approximately 32% of the population with 3G and LTE in Pennsylvania 11 – Huntingdon, and approximately 10% of the land area.

¹⁰³ See *supra* para. 21.

¹⁰⁴ See, e.g., *AT&T-Plateau Wireless Order*, 30 FCC Rcd at 5126, para. 43; *AT&T-Leap Order*, 29 FCC Rcd at 2792-93, para. 130; *SoftBank-Sprint Order*, 28 FCC Rcd at 9677-78, para. 91.

¹⁰⁵ See, e.g., *SoftBank-Sprint Order*, 28 FCC Rcd at 9678, para. 92; *Alaska Wireless Order*, 28 FCC Rcd at 10468, para. 86; see also *AT&T-Leap Order*, 29 FCC Rcd at 2793, para. 131.

¹⁰⁶ See, e.g., *AT&T-Leap Order*, 29 FCC Rcd at 2793, para. 132; *Alaska Wireless Order*, 28 FCC Rcd at 10468, para. 87; *SoftBank-Sprint Order*, 28 FCC Rcd at 9678, para. 93.

¹⁰⁷ *DOJ/FTC Horizontal Merger Guidelines* § 10 & n.13 (stating that “the agencies will not deem efficiencies to be merger-specific if they could be attained by practical alternatives that mitigate competitive concerns, such as divestiture or licensing”). Cf. *Alaska Wireless Order*, 28 FCC Rcd at 10467, para. 85.

benefit must be verifiable.¹⁰⁸ Because much of the information relating to the potential benefits of a transaction is in the sole possession of the Applicants, they have the burden of providing sufficient evidence to support each claimed benefit to enable us to verify its likelihood and magnitude.¹⁰⁹ We will discount or dismiss speculative benefits that we cannot verify. Further, benefits expected to occur only in the distant future may be discounted or dismissed because, among other things, predictions about the distant future are inherently more speculative than predictions that are expected to occur closer to the present.¹¹⁰ Third, we calculate the magnitude of benefits net of the cost of achieving them and benefits must flow through to consumers, and not inure solely to the benefit of the company. For example, we will more likely find marginal cost reductions to be cognizable than reductions in fixed cost because reductions in marginal cost are more likely to result in lower prices for consumers.¹¹¹

35. The Commission applies a “sliding scale approach” to evaluating benefit claims: Under this approach, where potential harms appear “both substantial and likely, a demonstration of claimed benefits also must reveal a higher degree of magnitude and likelihood than we would otherwise demand.”¹¹² Conversely, where potential harms appear less likely and less substantial, we will accept a lesser showing to approve the proposed transaction.¹¹³

36. The Applicants claim that the proposed transaction would result in a number of verifiable, transaction-specific public interest benefits, and we find, as discussed below, that the record generally supports the Applicants’ claims. However, given our competitive concerns as explained in Section III., and notwithstanding the Applicants’ commitments with respect to certain spectrum divestitures, we also impose the Applicants’ deployment commitments as conditions to help ensure that the claimed public interest benefits are achieved. Under our sliding scale approach, the proposed transaction raises some questions as to whether the Applicants have met their burden of demonstrating that the potential public interest benefits outweigh the potential public interest harms. We conclude that the commitments of Sprint and Shentel mitigate these potential public interest harms and will help facilitate the realization of the asserted public interest benefits. We therefore determine that these commitments permit the Applicants to meet their burden, and under our sliding scale approach, this will allow us to find that overall, the proposed transaction is in the public interest.

37. The Applicants assert that the proposed transaction would improve wireless service for customers and promote wireless competition.¹¹⁴ According to the Applicants, the proposed transaction would benefit NTELOS’s existing customers, as planned infrastructure investments would result in enhanced wireless coverage, improved service quality, and expanded service to new areas.¹¹⁵ The

¹⁰⁸ See, e.g., *AT&T-Leap Order*, 29 FCC Rcd at 2793, para. 132; *Alaska Wireless Order*, 28 FCC Rcd at 10468, para. 87; *SoftBank-Sprint Order*, 28 FCC Rcd at 9678, para. 93.

¹⁰⁹ See, e.g., *AT&T-Leap Order*, 29 FCC Rcd at 2793, para. 132; *Alaska Wireless Order*, 28 FCC Rcd at 10468, para. 87; *SoftBank-Sprint Order*, 28 FCC Rcd at 9678, para. 93.

¹¹⁰ See, e.g., *AT&T-Leap Order*, 29 FCC Rcd at 2793, para. 132; *Alaska Wireless Order*, 28 FCC Rcd at 10468, para. 87.

¹¹¹ See e.g., *AT&T-Leap Order*, 29 FCC Rcd at 2793-94, para. 132; *Alaska Wireless Order*, 28 FCC Rcd at 10468, para. 87.

¹¹² See, e.g., *AT&T-Plateau Wireless Order*, 30 FCC Rcd at 5126-27, para. 44; *AT&T-Club 42 Order*, 30 FCC Rcd at 13074, para. 40; *Alaska Wireless Order*, 28 FCC Rcd at 10468, para. 88; *SoftBank-Sprint Order*, 28 FCC Rcd at 9678, para. 93.

¹¹³ See, e.g., *AT&T-Club 42 Order*, 30 FCC Rcd at 13074, para. 40; see also *AT&T-Leap Order*, 29 FCC Rcd at 2794, para. 131; *Alaska Wireless Order*, 28 FCC Rcd at 10468, para. 88; *SoftBank-Sprint Order*, 28 FCC Rcd at 9678, para. 93; cf. *2010 DOJ/FTC Horizontal Merger Guidelines* at § 10, p. 31.

¹¹⁴ Public Interest Statement at 4, 6-7.

¹¹⁵ *Id.* at 4.

Applicants assert that Sprint and Shentel have long had a successful, pro-competitive partnership in providing Sprint-branded wireless service to customers in primarily rural areas, and that the proposed transaction would extend such arrangements to the current NTELOS service area to the ultimate benefit of NTELOS customers.¹¹⁶

38. *Network Expansion and Densification.* According to the Applicants, absent the proposed transaction, Shentel would not [REDACTED].¹¹⁷ The Applicants assert that during the five years immediately following the transaction closing, Shentel would invest approximately \$350 million in network-related capital improvements to reduce coverage gaps in the current NTELOS service area and to accelerate the on-going 4G LTE upgrade and expansion of the existing NTELOS network.¹¹⁸ The Applicants state that the current NTELOS network is adjacent to the existing Shentel network and that the upgrade of the current NTELOS network would be very similar to the network-wide 4G LTE upgrades that Shentel recently completed on its own network.¹¹⁹

39. The Applicants further maintain that within 36 months after the transaction closes, Shentel would add approximately 150 new cell sites in the NTELOS service territory, which would result in a higher cell site density level and improve the customer experience.¹²⁰ Shentel contends that, as a result of these investments, NTELOS customers would benefit from improved voice coverage and significantly improved wireless data speeds and coverage.¹²¹ Shentel also claims that it plans to deploy 4G LTE service in those NTELOS service areas having “a greater population density.”¹²² Shentel further claims that to increase wireless broadband capacity throughout the NTELOS service area, it plans to deploy additional 4G LTE capacity at existing sites, additional cell sites, and in-building systems.¹²³

40. *Benefits to Consumers and Customer Transition.* As part of our public interest review, we also consider the impact of the proposed transaction on NTELOS’s customers. The Applicants assert that NTELOS’s customers would gain access to the range of services available on Sprint’s nationwide 4G LTE network, which they cannot access today.¹²⁴ These customers also would have access to a broader array of handsets including “cutting-edge” handsets¹²⁵ to which Sprint claims it has greater access than

¹¹⁶ *Id.* at 2-3. The Applicants assert that the transaction does not involve the integration of wireless networks using incompatible technologies since both networks use CDMA and LTE technology and that this should facilitate the integration process. Sprint Dec. 4, 2015 Information Request Response at 3, 11; *see also* SPRINT-FCC-01-4c-000996.

¹¹⁷ Shentel Dec. 4, 2015 Information Request Response at 9-10, 13.

¹¹⁸ Public Interest Statement at 5; Shentel Dec. 4, 2015 Information Request Response at 3, 11-13.

¹¹⁹ Shentel Dec. 4, 2015 Information Request Response at 13; *see also* SHENTEL-FCC-01-03-000375 to SHENTEL-FCC-01-03-000938. In addition, Shentel states that it has over 4,000 route-miles of fiber optic network facilities in Virginia and West Virginia that will be utilized to transport data and voice traffic for many of the current NTELOS cell sites. Shentel Dec. 4, 2015 Information Request Response at 13.

¹²⁰ Public Interest Statement at 5; SPRINT-FCC-01-4c-001007; *see also* Shentel Dec. 4, 2015 Information Request Response at 3 (Shentel states that its planned investment also includes approximately [REDACTED] to add approximately 150 new cell sites to expand service to rural areas throughout southern Virginia and West Virginia).

¹²¹ Shentel Dec. 4, 2015 Information Request Response at 3. Shentel claims that it will substantially complete these network enhancements and upgrades within [REDACTED] months after the proposed transaction closes. *Id.* at 3.

¹²² Shentel Dec. 4, 2015 Information Request Response at 3.

¹²³ *Id.* at 4.

¹²⁴ Public Interest Statement at 5.

¹²⁵ *Id.*; *see also* SPRINT-FCC-01-4b-000329- SPRINT-FCC-01-4b-000934.

smaller, regional providers such as NTELOS.¹²⁶ In addition, the Applicants contend that NTELOS customers will have access, as a result of the proposed transaction, to a range of highly competitive, pro-consumer Sprint service plans.¹²⁷ The Applicants further claim that NTELOS customers traveling outside of the NTELOS service area would have improved and more economical roaming because Sprint has existing roaming agreements that allow it to provide roaming coverage more efficiently.¹²⁸

41. The Applicants also have stated that they will ensure a smooth transition for NTELOS customers, and that no subscribers will lose service as a result of this proposed transaction.¹²⁹ In a letter filed with the Commission, Sprint and Shentel have made a number of voluntary commitments with respect to their plans for transition of the existing NTELOS customers. Specifically, postpaid NTELOS customers with Apple operating system (OS)-powered handsets, Apple models 5c and later, will receive a new SIM card at no cost, but will otherwise be permitted to continue to use such handsets or upgrade to other handsets once transitioned.¹³⁰ Further, these customers will have the option to select any new Sprint service plan available at the time they transition, or they will be transitioned to a service plan that is equal to, or more favorable than, their existing NTELOS service plan.¹³¹ Postpaid customers with Android OS-powered handsets and customers with Apple iOS models prior to the Apple 5c will receive a like-for-like replacement handset that is compatible with the expanded capabilities of the Sprint network.¹³² The Applicants state that there will be no additional costs to the customer for these like-for-like replacement handsets.¹³³ For prepaid customers, Sprint and Shentel commit that prepaid customers will be served off of the existing NTELOS billing and customer care platform for a period of approximately 150 days, but no later than August 31, 2016.¹³⁴

42. *Increased Competition.* The Applicants further argue that the proposed transaction would benefit customers through increased competition.¹³⁵ The Applicants maintain that the planned investments in the NTELOS network and service area would give customers better wireless service and improved service provider options.¹³⁶ The Applicants contend that Sprint presently is not a strong competitor in the relevant markets where Sprint is a wholesale customer of NTELOS and assert that the

¹²⁶ Sprint Dec. 4, 2015 Information Request Response at 4-5; *see also* SPRINT-FCC-01-4a-000324, SPRINT-FCC-01-4b-000329.

¹²⁷ Public Interest Statement at 5; Sprint Dec. 4, 2015 Information Request Response at 4; *see also* SPRINT-FCC-01-4a-000313, SPRINT-FCC-01-4a-000316, SPRINT-FCC-01-4c-000970.

¹²⁸ Public Interest Statement at 5-6; Sprint Dec. 4, 2015 Information Request Response at 4; SPRINT-FCC-01-2-000004; *see also* Shentel Dec. 4, 2015 Information Request Response at 4.

¹²⁹ Public Interest Statement at 13.

¹³⁰ Letter from James B. Goldstein, Senior Counsel, Legal and Government Affairs, Sprint Corp. and K.C. Halm, Counsel for Shenandoah Personal Communications, LLC, to Marlene H. Dortch, Secretary, WT Docket No. 15-262 at 5 (filed April 12, 2016) (Sprint/Shentel Commitment Letter), attached as Appendix 1.

¹³¹ *Id.*

¹³² *Id.* at 5, n.2.

¹³³ Sprint/Shentel Commitment Letter at 5. The Applicants note that customers will be responsible for continuing payment of any remaining installment payments they currently have under their existing NTELOS plan (for their existing handset) until that obligation is satisfied. However, the Applicants will not assess any additional charges for the replacement handsets, even in those circumstances where the replacement handset has more features or is more expensive than their replacement handset. *Id.* at 5 & n.3.

¹³⁴ Sprint/Shentel Commitment Letter at 5. Following this period, these prepaid customers will be served off of Sprint's billing and service platform. *Id.* at 5.

¹³⁵ Public Interest Statement at 6-9.

¹³⁶ Public Interest Statement at 6-9.

proposed transaction would allow Sprint to move away from a wholesale purchasing model in these areas and into its affiliate model with Shentel.¹³⁷ The Applicants argue that the affiliate model and planned network infrastructure upgrades and improvements provide Sprint and Shentel with greater incentives to compete for new subscribers, and would allow Sprint and Shentel to offer a better service than what NTELOS is able to offer today independently.¹³⁸ Further, the Applicants assert that the acquisition of NTELOS's retail stores would provide Sprint and Shentel with a greater capability to compete with AT&T and Verizon Wireless in the relevant geographic areas.¹³⁹

43. *Evaluation.* We have reviewed the Applicants' asserted benefits, as well as their responses to our requests for additional information and documents. We conclude that the record, as supplemented by their commitments, provides support for the Applicants' contentions that the proposed transaction would result in some verifiable, transaction-specific public interest benefits. We anticipate that Sprint and Shentel, through the spectrum acquisition and infrastructure improvement, could deploy a more competitive LTE network, and there would be benefits to its customers resulting from an expanded and denser LTE network. To the extent that the proposed transaction would facilitate more rapid 4G LTE deployment in these markets, it likely would lead to discernible benefits to those NTELOS customers that transition to the higher quality network.¹⁴⁰ We note that we cannot fully credit this claimed public interest benefit given the timeframes as articulated by the Applicants as the timeframes are inherently more speculative than predictions that are closer to the present. However, the network deployment commitment adopted as a condition to our consent, as discussed below, allows us to recognize these claimed public interest benefits of the proposed transaction.

44. We further find that the proposed transaction could allow Sprint/Shentel to provide a better user experience to NTELOS's customers more rapidly than otherwise. We acknowledge the Applicants' claimed benefits to NTELOS customers, including broader access to 4G LTE technology and the expanded choice of handsets, as well as the steps that Sprint/Shentel have committed to take to ensure a smooth transition for NTELOS customers. Also, we find that the proposed transaction would lead to certain roaming cost efficiencies, which likely would result in some public interest benefits to the extent that these are passed on to the customer.¹⁴¹

V. COMMITMENTS AND REMEDIES

45. The review of a proposed transaction entails a thorough examination of the potential public interest harms and any verifiable, transaction-specific benefits, including any commitments made by the Applicants to further the public interest.¹⁴² As part of this process, we may impose additional remedial conditions to address potential harms likely to result from the proposed transaction or to help

¹³⁷ Public Interest Statement at 7, 9. The Applicants state that Sprint and Shentel have amended their affiliate agreement to incorporate build-out plans and expansion of the NTELOS network and have extended the agreement for five years to 2029. Public Interest Statement at 9. The Applicants contend that the extension of the Sprint/Shentel affiliate agreement incentivizes the parties to enhance the network and aggressively upgrade the current NTELOS network. Shentel Dec. 4, 2015 Information Request Response at 8.

¹³⁸ Public Interest Statement at 9.

¹³⁹ Public Interest Statement at 9; *see also* SPRINT-FCC-01-4c-001013 at 6-8.

¹⁴⁰ *See, e.g., AT&T-CPI Order*, 31 FCC Rcd at 329-30, para. 30; *AT&T-Plateau Wireless Order*, 30 FCC Rcd at 5129-30, para. 54.

¹⁴¹ *See, e.g., AT&T-CPI Order*, 31 FCC Rcd at 329-30, para. 30; *AT&T-Plateau Wireless Order*, 30 FCC Rcd at 5130, para. 55.

¹⁴² *AT&T-Leap Order*, 29 FCC Rcd at 2800-01, para. 155; *Applications of AT&T Inc. and Atlantic Tele-Network, Inc. for Consent To Transfer Control of and Assign Licenses and Authorizations*, Memorandum Opinion and Order, 28 FCC Rcd 13670, 13719, para. 90 (WTB, IB 2013) (*AT&T-ATN Order*).

ensure the realization of any promised potential benefits.¹⁴³

46. In recent filings supplementing the record on some key issues, Sprint and Shentel have made several voluntary commitments that, as explained below, allow us to find that the proposed transaction overall would be in the public interest.¹⁴⁴ These commitments include, in addition to the customer transition matters discussed in Section IV. above, spectrum divestitures in certain markets where we have found the potential for spectrum aggregation to lead to competitive harm, and expanded and densified LTE network deployment. Sprint and Shentel have committed to file quarterly reports detailing their progress in complying with these commitments.¹⁴⁵

47. *Network Deployment.* Sprint and Shentel are committing to deploy LTE service so that NTELOS customers will have access to a network that will be upgraded to LTE network capabilities, with increased network capacity, expanded coverage, expanded frequencies to improve in-building coverage, and higher data speeds.¹⁴⁶ Shentel has committed to invest up to \$350 million in network infrastructure improvements within the current NTELOS service area to effectuate significant network upgrades and network expansion within five years of close of the transaction.¹⁴⁷ Specifically, Shentel commits to complete a network-wide deployment of 4G LTE service in Band Class 25 (1900 MHz), as well as commits to complete a network-wide deployment of 4G LTE and voice services in Band Class 26 (800 MHz) in the current NTELOS service area.¹⁴⁸ Shentel also will deploy 4G LTE service in Band Class 41 (2.5 GHz) in current NTELOS service areas with greater population density.¹⁴⁹ Shentel also commits to deploy 4G LTE service to improve wireless data speeds and capacity in NTELOS service areas that require additional 4G LTE capacity due to their greater population density, such as Charlottesville and Roanoke in Virginia, and Charleston and Morgantown in West Virginia.¹⁵⁰

48. Shentel further commits to upgrade the 857 existing NTELOS cell sites that were active as of December 31, 2015.¹⁵¹ Shentel commits to substantially complete the 4G LTE upgrades for the 857 existing cell sites within twenty-four months after the transaction closes.¹⁵² In addition, Shentel commits to deploy 150 new cell sites to expand wireless voice and 4G LTE data to rural areas in certain markets and regions of southern Virginia and West Virginia.¹⁵³ Further, Shentel commits to substantially

¹⁴³ *AT&T-Leap Order*, 29 FCC Rcd at 2800-01, para. 155; *AT&T-ATN Order*, 28 FCC Rcd at 13719, para. 90.

¹⁴⁴ Sprint/Shentel Commitment Letter at 3-6.

¹⁴⁵ Sprint/Shentel Commitment Letter at 6. Sprint and Shentel state that for three years following the date the merger closes, Shentel and Sprint will commit to file with the Commission a quarterly report on the status of implementation of the network deployment and spectrum divestiture commitments. *Id.* at 6. If the network deployment commitments are not met within the three-year reporting period, this reporting requirement will be extended, with respect to those deployment commitments, until such time as those deployment commitments are fully met or waived by the FCC. Each such report will be due 30 days following the end of the calendar quarter covered by the report, and the first such report will cover the period from the transaction's closing through the end of the first full calendar quarter thereafter. *Id.* at 6.

¹⁴⁶ Sprint/Shentel Commitment Letter at 4. Sprint and Shentel note that these LTE deployment and network expansion commitments are contingent in part upon Shentel's ability to secure necessary zoning, permitting, and other access and use rights for new equipment. *Id.*

¹⁴⁷ *Id.* at 4.

¹⁴⁸ *Id.*

¹⁴⁹ *Id.*

¹⁵⁰ *Id.*

¹⁵¹ *Id.*

¹⁵² Sprint/Shentel Commitment Letter at 4.

¹⁵³ *Id.*

complete the deployment and network expansion of 150 new cell sites within thirty-six months after the close of the transaction.¹⁵⁴

49. *Spectrum Divestiture.* Sprint has made a commitment that, within six months of the transaction closing, Sprint will file applications with the Commission to assign or transfer control of the amounts of spectrum (Divestiture Assets) in the geographic areas identified in Appendix 1.¹⁵⁵ In its divestiture commitment, Sprint reserves the right, upon notice to the Bureau, to change the specific type of spectrum to be divested in any geographic area based on further analysis performed after the transaction's close.¹⁵⁶ In lieu of an assignment to a third-party, Sprint may modify existing spectrum lease authorizations to relinquish access to spectrum in the listed markets in Appendix 1.¹⁵⁷

VI. BALANCING THE POTENTIAL BENEFITS AND THE POTENTIAL HARMS

50. The Applicants bear the burden of demonstrating that the potential public interest benefits of the proposed transaction outweigh the potential public interest harms. We have reviewed the Applicants' initial public interest statement, as well as their responses to our requests for additional information and documents and their letters offering voluntary commitments. After our evaluation, we find that the transaction as originally proposed has the potential to cause some public interest harms in several local markets through Sprint's post-transaction spectrum holdings. Moreover, we recognize the loss of an independent facilities-based service provider in certain of the markets implicated by the instant transaction. Although we find some potential public interest benefits are likely to arise from the transaction, the timeframe in which it is claimed that these benefits would be realized gives us some concerns. However, given the Applicants' commitments with respect to spectrum divestitures and LTE network expansion and densification, which we impose as conditions to our consent, in conjunction with the public interest benefits, there is sufficient evidence on this record for us to conclude that Applicants have met their burden of demonstrating that the likely public interest benefits outweigh the likely public interest harms, such that we are able to consent to the proposed transaction. We also condition this approval upon the filing of quarterly reports describing the voluntary commitments included in their letter.

VII. ORDERING CLAUSES

51. ACCORDINGLY, having reviewed the Applications and the record in this proceeding, IT IS ORDERED that, pursuant to Sections 4(i) and (j), 214, 303(r), 309, and 310(d) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 214, 303(r), 309, 310(d), the following applications of SprintCom, Inc., Shenandoah Personal Communications, LLC, and NTELOS Holdings Corp. for assignment of licenses, transfer of control of long-term *de facto* transfer leasing arrangements, and transfer of control of an international Section 214 authorization are GRANTED to the extent specified in this Memorandum Opinion and Order and subject to the conditions specified herein: ULS File Nos. 0006917154, 0006917350, 0006917353, 0006917374, 0006917481, 0006918539, and 0006918521; File No. ITC-T/C-20150826-00215.

52. IT IS FURTHER ORDERED that the above grant shall include authority for the assignment or transfer of control from NTELOS of any licenses or authorizations that are subject to any applications that are pending at the time of consummation as well as any licenses or authorizations that may have inadvertently been omitted from the application forms filed by the Applicants.

¹⁵⁴ *Id.*

¹⁵⁵ *Id.* at 3.

¹⁵⁶ *Id.*

¹⁵⁷ *Id.*

53. IT IS FURTHER ORDERED that this Order SHALL BE EFFECTIVE upon release. Petitions for reconsideration under Section 1.106 of the Commission's rules, 47 C.F.R. § 1.106, or applications for review under Section 1.115 of the Commission's rules, 47 C.F.R. § 1.115, may be filed within thirty days of the date of release of this Memorandum Opinion and Order.

54. This action is taken under delegated authority pursuant to Sections 0.51, 0.131, 0.261, and 0.331 of the Commission's rules, 47 C.F.R. §§ 0.51, 0.131, 0.261, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

Jon Wilkins
Chief
Wireless Telecommunications Bureau

Mindel De La Torre
Chief
International Bureau

APPENDIX 1
Applicants' Letter of Commitment

April 12, 2016

Via Electronic Filing

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

**Re: *Applications of SprintCom, Inc., Shenandoah Personal Communications, LLC,
and NTELOS Holdings Corp. for Consent To Assign Licenses and Transfer
Control of Long-Term De Facto Transfer Spectrum Leasing Arrangements
(WT Docket No. 15-262)***

Dear Ms. Dortch:

In their Joint Application¹ and subsequent filings, Shenandoah Personal Communications, LLC ("Shentel"), NTELOS Holdings Corp ("NTELOS"), and SprintCom, Inc. ("Sprint") (the "Joint Applicants") have demonstrated that approval of the transaction described therein (the "Transaction") will serve the public interest. Previously, Shentel and Sprint made several significant commitments which will ensure the numerous public interest benefits of this transaction are fully realized. The instant letter updates the previously filed submissions to remove highly confidential and confidential information, in order that the Joint Applicants commitments are fully public.

In order to expedite approval of the Transaction, Shentel and Sprint make the following commitments regarding spectrum divestitures, network deployment and customer transition. These commitments, as set forth in Appendix A, are conditioned upon and would take effect upon the closing of the transaction. Accordingly, the Joint Applicants request that the Commission incorporate these commitments into a final order and approve the transaction as expeditiously as possible to permit the Joint Applicants to close as soon as possible thereafter.

¹ *SprintCom, Inc., Shenandoah Personal Communications, LLC, and NTELOS Holdings Corp. Seek Consent to the Assignment of License and Spectrum Lease Authorizations and an International Section 214*, WT Docket 15-262, filed Aug. 25, 2015 (ULS File No. 0006917154 designated as lead application) ("Joint Application").

Pursuant to Section 1.1206(b) of the Commission's rules, a copy of this ex parte presentation is being filed in the above-referenced docket. Should you have any questions regarding these matters please contact the undersigned.

Respectfully submitted,

SPRINTCOM, INC.

**SHENANDOAH PERSONAL
COMMUNICATIONS, LLC**

/s/

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cc: Linda Ray
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APPENDIX A
Joint Applicants' Commitments

Spectrum Divestitures:

Within six months of the closing, Sprint will file applications with the Commission to assign the amounts and type of spectrum in the geographic areas identified below ("Divestiture Assets"). Sprint reserves the right, upon notice to the Wireless Telecommunications Bureau ("Bureau"), to change the specific type of spectrum to be divested in any geographic area, based on further analysis performed after the closing. In lieu of an assignment to a third-party, Sprint may modify existing spectrum lease authorizations to relinquish access to spectrum in the below listed markets. Upon application by Sprint to the Bureau, the Bureau may grant one or more extensions, not to exceed 90 days in the aggregate, to allow Sprint further time to dispose of the Divestiture Assets. To the extent the applications are not filed by the relevant date, or by any extended date allowed by the Bureau, the Commission may require Sprint to surrender the Divestiture Assets.

Geographic Area Amount & Type of Spectrum

CMA	CMA Market Name	Amount and Type of Spectrum
CMA157	Roanoke	20 MHz AWS-1; and 10 MHz of 2.5 GHz
CMA683	VA 3 - Giles	20 MHz AWS-1; and 10 MHz 2.5 GHz (Floyd, Giles, Montgomery counties only)
CMA684	VA 4 - Bedford	20 MHz AWS-1; and 10 MHz 2.5 GHz (Bedford, Franklin counties only)
CMA685	VA 5 - Bath	20 MHz AWS-1; and 10 MHz 2.5 GHz (Alleghany, Covington City counties only)
CMA686	VA 6 - Highland	20 MHz AWS-1
CMA203	Lynchburg	20 MHz AWS-1
CMA256	Charlottesville	20 MHz AWS-1

Network Deployment

In prior filings Shentel has committed to invest up to \$350 million in network infrastructure improvements within the current NTELOS service area to effectuate significant network upgrades and network expansion within five years of close of the transaction. In conjunction with that investment Shentel commits to the following network deployment steps.

4G LTE Upgrades by Market – As previously explained, Shentel commits to complete a network-wide deployment of 4G LTE service in Band Class 25 (1900 MHz), as well as commit to complete a network-wide deployment of 4G LTE and voice services in Band Class 26 (800 MHz) in the current NTELOS service area. Shentel will also deploy 4G LTE service in Band Class 41 (2.5 GHz) in NTELOS service areas with greater population density.

Through this deployment plan Shentel commits to upgrade the 857 existing NTELOS cell sites that were active (on air) as of December 31, 2015. In addition, Shentel commits to deploy 150 new cell sites to expand wireless voice and 4G LTE data to certain rural markets and regions of southern Virginia and West Virginia. Consumers in all of these markets will benefit from these upgrades and deployments.

Shentel commits to substantially complete the 4G LTE upgrades for these 857 existing cell sites within twenty four months after the transaction closes. Shentel commits to substantially complete the deployment and network expansion of 150 new cell sites within thirty six months after the close of the transaction.

Network Expansion and Densification by Market - Shentel commits to complete the network-wide deployment of 4G LTE service in Band Class 25 (1900 MHz) and Band Class 26 (800 MHz), which will provide significantly improved wireless data speeds and coverage to customers in rural markets throughout the former NTELOS service area over the period described herein. In addition, Shentel's commitment to deploy 4G LTE service in Band Class 41 (2.5 GHz) will significantly improve wireless data speeds and capacity in those NTELOS service areas which require additional 4G LTE capacity due to their greater population density, such as: Charlottesville, VA; Roanoke, VA; Charleston, WV; and Morgantown, WV.

These LTE deployment and network expansion commitments are contingent upon Shentel's ability to secure necessary zoning, permitting and other access and use rights for new equipment. In addition, the commitment to meet these deployment and expansion commitments is also contingent upon other factors, including but not limited to, limitations or delays arising from vendor delays, errors or omissions, labor and workforce issues, natural disasters and acts of God.

Customer Transition

Postpaid Customers: Shentel commits to continue to operate the NTELOS billing and customer care platform for a period of between six to eighteen months, while customers are migrated to the new service platform. During that time, NTELOS postpaid customers will continue to be served off of the NTELOS platforms until such customers are transitioned to the

Sprint billing and customer care platforms. Shentel and Sprint commit to migrate these customers on an individualized basis via a porting process, rather than in a “flash cut” mass migration. Use of the porting process to transition these customers will provide customers an opportunity to review and ask questions about available rates plans, handsets and service options on an individualized basis. This ensures that customers are fully informed of, and involved in, the transition process for their own accounts.

SIM Cards Replaced at No Cost – As described in the Parties’ initial commitment letter, postpaid customers with Apple operating system (OS)-powered handsets (models 5c and later) will receive a new SIM card, but will otherwise be permitted to continue to use such handsets (or upgrade to other handsets) once transitioned. The Joint Applicants will commit to provide these new SIM cards to customers at no cost to the postpaid customers with Apple OS-handsets. As previously explained, these customers will have the option to select any new Sprint service plan available at the time they port, or they will be transitioned to a service plan that is equal to, or more favorable than, their existing NTELOS service plan.

Like-for-Like Handset Replacement Plan: As previously explained, postpaid customers with Android OS-powered handsets will receive a like-for-like replacement handset that is compatible with the expanded capabilities of the Sprint network.² The Joint Applicants believe that these handsets meet or exceed existing capabilities and features of existing handsets that will be replaced. There will be no additional costs to the customer for these replacement handsets.³

Clarification of Prepaid Customer Transition Issues – The Joint Applicants wish to clarify one aspect of the transition process for prepaid customers. With respect to the transition period for prepaid customers, the Joint Applicants wish to clarify that all prepaid customers will be served off of the existing NTELOS billing and customer care platform for a period of approximately 150 days, but no later than August 31, 2016.⁴

Customer Communications: Shentel and Sprint commit to communicate information concerning the transition process with all current and prospective customers via multiple platforms, and at different stages of the process. Such communications will include up to five separate communications with customers over three phases of the transition process. Shentel and

² The Joint Applicants expect to use this approach for Apple iOS models prior to the Apple 5c.

³ Of course, these customers will be responsible for continuing payment of any remaining installment payments they currently have under their existing NTELOS plan (for their existing handset) until that obligation is satisfied. However, the Joint Applicants will not assess any additional charges for the replacement handsets, even in those circumstances where the replacement handset has more features or is more expensive than their replacement handset.

⁴ Continuing to serve these prepaid customers off of the same billing platform after August 31, 2016, would impose significant additional operational costs due to the substantial renewal fees associated with renewing the existing billing vendor service contract. Following this period these prepaid customers will be served off of Sprint’s billing and service platform.

Sprint commit to provide such communications across a variety of communications platforms, including: direct mail, bill inserts, e-mail, websites, social media, mobile apps and SMS (consistent with any limitations under the TCPA). In addition, Shentel and Sprint will continue to operate and maintain the informational website that provides detailed information of the Transaction (including transition issues) in plain language: <http://welcometoshentel.com/>.

Progress Reports – For three years following the date the merger closes, Shentel and Sprint will commit to file with the Commission a quarterly report on the status of its implementation of the network deployment and spectrum divestiture commitments. If the network deployment commitments are not met within the three-year reporting period, this reporting requirement will be extended, with respect to those deployment commitments, until such time as those deployment commitments are fully met or waived by the FCC. Each such report will be due 30 days following the end of the calendar quarter covered by the report, and the first such report will cover the period from the transaction's closing through the end of the first full calendar quarter thereafter.